

# **CONSTITUTION OF INDIA**

## **SUMMARY**

The Constitution of India was adopted on November 26, 1949 and came into effect on January 26, 1950. It is the supreme law of India, laying down the framework and basic principles of government, as well as defining the fundamental rights and duties of Indian citizens. The Constitution has a preamble, 22 parts, and 395 articles, as well as eight schedules and numerous amendments. It provides for a federal system of government with a strong central government and includes provisions for the separation of powers, fundamental rights and duties, directive principles of state policy, and the structure and powers of the government at the national, state, and local levels.

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## **ARTICLES**

### **PART I: THE UNION AND ITS TERRITORY**

#### **Article 1: Name and territory of the Union.**

- (1) India, that is Bharat, shall be a Union of States.
- (2) The States and the territories thereof shall be as specified in the First Schedule.
- (3) The territory of India shall comprise -
  - (a) the territories of the States;
  - (b) the Union territories specified in the First Schedule; and
  - (c) such other territories as may be acquired.

#### **Simplified act**

- (1) India, also known as Bharat, will be made up of different states.
- (2) The names and areas of these states are listed in the First Schedule.
- (3) The land of India will include -
  - (a) the areas of the states;
  - (b) the Union territories listed in the First Schedule; and
  - (c) any other areas that India might acquire in the future.

Explanation using Example

Example 1:

Rajesh is a geography teacher in a school in Delhi. One day, his students ask him about the official name of their country. Rajesh explains that according to Article 1 of the Constitution of India, the official name of the country is "India, that is Bharat." He further explains that this means both "India" and "Bharat" are recognized names for the country.

Example 2:

Meera is a law student studying the territorial boundaries of India. She learns that the Constitution of India, under Article 1, specifies that the country is a Union of States. She refers to the First Schedule of the Constitution to understand the specific States and Union Territories that make up India. Meera also notes that the territory of India includes not just the States and Union Territories listed in the First Schedule, but also any other territories that may be acquired in the future.

## **Article 2: Admission or establishment of new States.**

Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

### **Simplified act**

Parliament can create new States or add new States to the Union by making a law. They can set any terms and conditions they think are appropriate.

Explanation using Example

Example 1:

The Indian Parliament decides to admit a new territory, Lakshadweep, as a full-fledged state. After thorough discussions and considerations, Parliament passes a law specifying the terms and conditions for Lakshadweep's admission. These terms include the establishment of a state government, allocation of seats in the Lok Sabha and Rajya Sabha, and the distribution of financial resources. Once the law is enacted, Lakshadweep officially becomes a new state within the Union of India.

Example 2:

A region in the northeastern part of India, currently part of Assam, has been demanding statehood due to its unique cultural and ethnic identity. After evaluating the demands and the potential benefits, Parliament decides to establish a new state called Bodoland. Parliament passes a law outlining the terms and conditions for the creation of Bodoland, including the delineation of its boundaries, the establishment of a state legislative assembly, and the allocation of financial and administrative resources. With the enactment of this law, Bodoland is officially recognized as a new state in the Union of India.

#### **Article 2A: Sikkim to be associated with the Union: Omitted.**

Omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (with effect from 26-4-1975).

#### **Simplified act**

This section was removed by the Constitution (Thirty-sixth Amendment) Act, 1975, section 5, starting from April 26, 1975.

Explanation using Example

Example 1:

Scenario: Before 1975, Sikkim was not a full-fledged state of India. It had a special status and was associated with the Union of India in a unique manner.

Situation: Imagine a family living in Sikkim in 1974. They had to follow different administrative rules compared to families living in other Indian states. For instance, they might have needed special permits to travel to other parts of India, and their local government had more autonomy compared to other states.

Change in 1975: After the Constitution (Thirty-sixth Amendment) Act, 1975, Sikkim became a full state of India. This meant that the family now had the

same rights and responsibilities as any other Indian citizen. They no longer needed special permits to travel within India, and Sikkim's local government had to follow the same rules as other state governments.

Example 2:

Scenario: A businessman in Sikkim in 1974 wanted to expand his business to other parts of India. Due to Sikkim's special status, he faced several bureaucratic hurdles, such as obtaining special permissions and dealing with different tax regulations.

Situation: The businessman had to spend a lot of time and resources to comply with these unique regulations, which slowed down his business expansion.

Change in 1975: After the amendment, Sikkim was fully integrated into India. The businessman could now operate under the same business laws and tax regulations as any other Indian state. This made it easier for him to expand his business across India without facing the previous bureaucratic challenges.

### **Article 3: Formation of new States and alteration of areas, boundaries or names of existing States.**

Parliament may by law -

- (a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;
- (b) increase the area of any State;
- (c) diminish the area of any State;
- (d) alter the boundaries of any State;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.

Explanation I

In this article, in clauses (a) to (e), "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

#### Explanation II

The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.

### **Simplified act**

Parliament can make laws to -

- (a) create a new State by separating land from an existing State, combining two or more States or parts of States, or adding any territory to a part of any State;
- (b) increase the size of any State;
- (c) decrease the size of any State;
- (d) change the boundaries of any State;
- (e) change the name of any State:

However, no Bill for these purposes can be introduced in either House of Parliament without the President's recommendation. Also, if the Bill affects the area, boundaries, or name of any State, the President must first send the Bill to that State's Legislature to get their opinion within a specified time period, which can be extended by the President. The Bill can only proceed after this period has ended.

#### Explanation I

In this article, the term "State" in clauses (a) to (e) includes Union territories. But in the proviso (the condition mentioned above), "State" does not include Union territories.

#### Explanation II

The power given to Parliament in clause (a) also includes the ability to create a new State or Union territory by combining a part of any State or Union territory with another State or Union territory.

#### Explanation using Example

Example 1:

The Indian government decides to create a new state called "Vidarbha" by separating certain districts from the existing state of Maharashtra. This action is taken to address the unique cultural and economic needs of the Vidarbha region. The Parliament introduces a Bill for the formation of the new state, but before it can proceed, the President must recommend the Bill. Additionally, the President refers the Bill to the Maharashtra State Legislature to get their views on the proposed separation. After the specified period for the State Legislature to express its views expires, the Parliament can then pass the Bill to officially create the new state of Vidarbha.

#### Example 2:

The Indian government decides to alter the boundaries of the state of Andhra Pradesh to include certain territories from the neighboring state of Telangana. This decision is made to improve administrative efficiency and address local governance issues. A Bill is introduced in Parliament for this purpose, but it requires the President's recommendation. The President then refers the Bill to both the Andhra Pradesh and Telangana State Legislatures to get their views on the proposed boundary changes. After the specified period for the State Legislatures to express their views expires, the Parliament can pass the Bill to officially alter the boundaries of Andhra Pradesh and Telangana.

#### Example 3:

The Indian government decides to change the name of the state of West Bengal to "Bangla" to better reflect the cultural identity of the region. A Bill is introduced in Parliament for this purpose, but it requires the President's recommendation. The President refers the Bill to the West Bengal State Legislature to get their views on the proposed name change. After the specified period for the State Legislature to express its views expires, the Parliament can pass the Bill to officially change the name of the state to "Bangla."

#### Example 4:

The Indian government decides to increase the area of the state of Karnataka by incorporating a part of the Union Territory of Puducherry. This decision is made to streamline administrative processes and improve governance. A Bill is introduced in Parliament for this purpose, but it requires the President's recommendation. The President refers the Bill to the Karnataka State Legislature to get their views on the proposed increase in area. After the specified period for the State Legislature to express its views expires, the

Parliament can pass the Bill to officially increase the area of Karnataka by incorporating the specified part of Puducherry.

Example 5:

The Indian government decides to diminish the area of the state of Uttar Pradesh by creating a new Union Territory called "Harit Pradesh" from certain districts of Uttar Pradesh. This decision is made to address the unique administrative and developmental needs of the region. A Bill is introduced in Parliament for this purpose, but it requires the President's recommendation. The President refers the Bill to the Uttar Pradesh State Legislature to get their views on the proposed diminution of area. After the specified period for the State Legislature to express its views expires, the Parliament can pass the Bill to officially create the new Union Territory of Harit Pradesh and diminish the area of Uttar Pradesh.

**Article 4: Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.**

(1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

### **Simplified act**

(1) Any law mentioned in article 2 or article 3 must include the necessary changes to the First Schedule and the Fourth Schedule to make sure the law works properly. It can also include additional details, like how the states affected by the law will be represented in Parliament and their own legislatures, if Parliament thinks it's needed.

(2) These kinds of laws are not considered changes to the Constitution according to article 368.

Explanation using Example



### Example 1:

The Indian Parliament decides to create a new state by bifurcating an existing state, say, Andhra Pradesh, into two states: Andhra Pradesh and Telangana. This action is taken under Article 3 of the Constitution of India. To implement this change, the Parliament passes a law that includes amendments to the First Schedule (which lists all the states and union territories of India) to add Telangana as a new state and modify the boundaries of Andhra Pradesh.

Additionally, the law includes amendments to the Fourth Schedule to adjust the representation of these states in the Rajya Sabha (Council of States). The law also contains supplemental provisions, such as the allocation of assets and liabilities between the two states, and incidental provisions, such as the establishment of a new High Court for Telangana.

### Example 2:

The Indian Parliament decides to merge two Union Territories, Dadra and Nagar Haveli and Daman and Diu, into a single Union Territory. This action is taken under Article 2 of the Constitution of India. To implement this change, the Parliament passes a law that includes amendments to the First Schedule to reflect the new Union Territory's name and boundaries.

The law also includes provisions for the representation of the new Union Territory in the Lok Sabha (House of the People) and any necessary changes to the Fourth Schedule regarding representation in the Rajya Sabha. Additionally, the law contains incidental provisions, such as the integration of administrative services and the reorganization of local governance structures.

### Example 3:

The Indian Parliament decides to alter the boundaries of an existing state, say, West Bengal, to include a part of a neighboring state, say, Bihar. This action is taken under Article 3 of the Constitution of India. To implement this change, the Parliament passes a law that includes amendments to the First Schedule to reflect the new boundaries of West Bengal and Bihar.

The law also includes provisions for the representation of the altered states in the Lok Sabha and Rajya Sabha, ensuring that the changes in population and territory are accurately represented. Additionally, the law contains supplemental provisions, such as the transfer of administrative control and resources, and incidental provisions, such as the adjustment of electoral constituencies.

Example 4:

The Indian Parliament decides to rename an existing state, say, Orissa to Odisha. This action is taken under Article 3 of the Constitution of India. To implement this change, the Parliament passes a law that includes amendments to the First Schedule to reflect the new name of the state.

The law also includes provisions for updating all official documents, records, and representations in the Lok Sabha and Rajya Sabha to reflect the new name. Additionally, the law contains incidental provisions, such as the modification of state symbols, seals, and other identifiers to align with the new name.

## **PART II: CITIZENSHIP**

### **Article 5: Citizenship at the commencement of the Constitution.**

At the commencement of this Constitution, every person who has his domicile in the territory of India and -

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

### **Simplified act**

When this Constitution starts, anyone who lives in India and -

- (a) was born in India; or
- (b) has a parent who was born in India; or
- (c) has lived in India for at least five years right before this Constitution starts, will be a citizen of India.

Explanation using Example

Example 1:

Ravi was born in Mumbai, India, in 1940. At the time of the commencement of the Constitution of India on January 26, 1950, Ravi was living in India. According to Article 5 of the Constitution of India, Ravi automatically became a

citizen of India because he was born in the territory of India and had his domicile in India at the commencement of the Constitution.

Example 2:

Anita's father, Rajesh, was born in Delhi, India, in 1920. Anita was born in London in 1945, but she moved to India with her family in 1948 and has been living there since. At the commencement of the Constitution of India on January 26, 1950, Anita was residing in India. According to Article 5 of the Constitution of India, Anita became a citizen of India because her father was born in the territory of India and she had her domicile in India at the commencement of the Constitution.

**Article 6: Rights of citizenship of certain persons who have migrated to India from Pakistan.**

Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if:

(a) he or either of his parents or any of his grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b)

(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

**Simplified act**

Even though Article 5 says otherwise, a person who moved to India from what is now Pakistan will be considered an Indian citizen when this Constitution starts if:

(a) He, or one of his parents or grandparents, was born in India as defined in the Government of India Act, 1935 (as it was originally written); and

(b)

(i) If he moved to India before July 19, 1948, he has been living in India regularly since he moved, or

(ii) If he moved to India on or after July 19, 1948, he has been registered as an Indian citizen by an officer appointed by the Government of India, after applying to that officer before this Constitution starts, in the way the Government has set out:

However, no one will be registered as a citizen unless they have lived in India for at least six months right before they apply.

Explanation using Example

Example 1:

Ravi's grandfather was born in Lahore, which was part of undivided India before 1947. After the partition, Ravi's family migrated to Delhi in June 1948. Since Ravi's grandfather was born in India as defined in the Government of India Act, 1935, and the family migrated before July 19, 1948, and has been living in India since then, Ravi is deemed to be a citizen of India at the commencement of the Constitution.

Example 2:

Ayesha's parents were born in Karachi, which was part of undivided India before 1947. Ayesha's family migrated to Mumbai in August 1948. Ayesha applied for Indian citizenship before the commencement of the Constitution and was registered as a citizen by an officer appointed by the Government of the Dominion of India. Since Ayesha's parents were born in India as defined in the Government of India Act, 1935, and she has been a resident in India for at least six months before her application, Ayesha is deemed to be a citizen of India at the commencement of the Constitution.

### **Article 7: Rights of citizenship of certain migrants to Pakistan.**

Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

### **Simplified act**

Even though articles 5 and 6 say otherwise, a person who moved from India to what is now Pakistan after March 1, 1947, will not be considered an Indian citizen:

However, this rule does not apply to someone who moved to Pakistan but then came back to India with a permit for resettlement or permanent return, issued by the authorities. Such a person will be considered to have moved to India after July 19, 1948, for the purposes of article 6(b).

#### Explanation using Example

##### Example 1:

Ravi was born in India and lived there until March 1947. After the partition, he migrated to Pakistan. According to Article 7 of the Constitution of India, Ravi is not considered an Indian citizen because he migrated to Pakistan after March 1, 1947. However, if Ravi decides to return to India and obtains a permit for resettlement or permanent return from the Indian government, he will be considered an Indian citizen as if he had migrated to India after July 19, 1948.

##### Example 2:

Fatima was born in India and moved to Pakistan in April 1947. She lived in Pakistan for several years but decided to return to India in 1950. She applied for and received a permit for permanent return from the Indian authorities. Under Article 7, Fatima is now considered an Indian citizen because she returned to India with the proper permit, and for the purposes of citizenship, it is as if she migrated to India after July 19, 1948.

##### Example 3:

Ahmed migrated from India to Pakistan in June 1947. He did not return to India and did not obtain any permit for resettlement or permanent return. According to Article 7, Ahmed is not considered an Indian citizen because he

migrated to Pakistan after March 1, 1947, and did not return with the necessary permit.

Example 4:

Sita was born in India and migrated to Pakistan in May 1947. In 1951, she decided to return to India and applied for a permit for resettlement. She received the permit and moved back to India. Under Article 7, Sita is considered an Indian citizen because she returned to India with the appropriate permit, and for citizenship purposes, it is as if she migrated to India after July 19, 1948.

**Article 8: Rights of citizenship of certain persons of Indian origin residing outside India.**

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

**Simplified act**

Even if Article 5 says otherwise, a person can be considered an Indian citizen if:

They, their parents, or their grandparents were born in India as defined in the Government of India Act, 1935.

They live in a country outside India.

To be recognized as an Indian citizen, this person must:

Apply to the Indian diplomatic or consular representative in the country where they currently live.

Follow the application process as prescribed by the Government of India.

This rule applies whether the application was made before or after the Indian Constitution started.

#### Explanation using Example

##### Example 1:

Ravi's grandfather was born in India in 1920, during the British rule. Ravi was born and currently resides in Canada. He wishes to obtain Indian citizenship. According to Article 8 of the Constitution of India, Ravi can apply for Indian citizenship through the Indian consulate in Canada. Once his application is approved and he is registered as a citizen by the consulate, Ravi will be deemed a citizen of India, despite living in Canada.

##### Example 2:

Anita's mother was born in India in 1940, before the Indian Constitution came into effect. Anita was born in the United States and has been living there her entire life. She wants to reconnect with her Indian heritage and obtain Indian citizenship. Under Article 8, Anita can apply for Indian citizenship at the Indian embassy in the United States. If her application is accepted and she is registered as a citizen by the embassy, Anita will be considered an Indian citizen, even though she resides in the United States.

##### Example 3:

Suresh's grandmother was born in India in 1932. Suresh was born in the United Kingdom and has been living there. He is interested in acquiring Indian citizenship. According to Article 8, Suresh can submit an application to the Indian High Commission in the United Kingdom. Upon successful registration as a citizen by the High Commission, Suresh will be recognized as an Indian citizen, regardless of his residence in the United Kingdom.

##### Example 4:

Priya's father was born in India in 1945. Priya was born in Australia and has been living there. She wants to obtain Indian citizenship to explore business opportunities in India. Under Article 8, Priya can apply for Indian citizenship at the Indian consulate in Australia. If her application is approved and she is registered as a citizen by the consulate, Priya will be deemed an Indian citizen, even though she resides in Australia.

## **Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens.**

No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

### **Simplified act**

A person cannot be considered a citizen of India under article 5, or be recognized as a citizen of India under article 6 or article 8, if they have willingly become a citizen of another country.

Explanation using Example

Example 1:

Ravi was born in India and has lived in India all his life. He was a citizen of India by virtue of Article 5 of the Constitution of India. However, Ravi decided to move to Canada for better job opportunities and voluntarily acquired Canadian citizenship. According to Article 9 of the Constitution of India, Ravi will no longer be considered a citizen of India because he has voluntarily acquired the citizenship of a foreign state.

Example 2:

Priya was born in India and her parents were Indian citizens. She moved to the United States for higher education and eventually decided to settle there. Priya applied for and obtained U.S. citizenship. Despite her Indian origin and the fact that she was an Indian citizen by virtue of Article 6, Priya will lose her Indian citizenship as per Article 9 of the Constitution of India because she voluntarily acquired U.S. citizenship.

## **Article 10: Continuance of the rights of citizenship.**

Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

### **Simplified act**

Anyone who is considered a citizen of India according to the rules mentioned earlier in this section will remain a citizen, as long as they follow any laws made by Parliament.



## Explanation using Example

### Example 1:

Rajesh was born in India in 1980 and has always lived in India. According to the provisions of Part II of the Constitution of India, he is deemed to be a citizen of India. In 2023, a new law is passed by the Parliament that changes certain criteria for citizenship. However, since Rajesh is already a citizen under the existing provisions, he continues to be a citizen of India despite the new law, unless the new law specifically states otherwise.

### Example 2:

Anita was born in India in 1990 to Indian parents and has an Indian passport. She moved to the United States for higher studies and has been living there for the past 10 years. Despite her long stay abroad, she is still considered a citizen of India under the provisions of Part II of the Constitution. If the Indian Parliament enacts a new law that affects citizenship status, Anita will continue to be a citizen of India unless the new law explicitly revokes her citizenship.

## **Article 11: Parliament to regulate the right of citizenship by law.**

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

## **Simplified act**

The rules mentioned in this section do not limit the power of Parliament to create laws about how people can gain or lose citizenship and any other issues related to citizenship.

## Explanation using Example

### Example 1:

Ravi was born in India to Indian parents, but his family moved to the United States when he was a child. As an adult, Ravi decides he wants to reclaim his Indian citizenship. According to Article 11 of the Constitution of India, the Parliament has the authority to create laws that govern how Ravi can reacquire his Indian citizenship. This means Ravi would need to follow the procedures and meet the criteria set out in the Citizenship Act, 1955, which was enacted by the Parliament under the powers granted by Article 11.

Example 2:

Priya, an Indian citizen, marries John, a foreign national. John wishes to become an Indian citizen. Article 11 empowers the Parliament to regulate the process for John to acquire Indian citizenship. The Parliament has enacted laws such as the Citizenship Act, 1955, which outlines the specific requirements and procedures John must follow to become an Indian citizen, such as residing in India for a certain period and renouncing his previous citizenship.

Example 3:

Amit, an Indian citizen, decides to voluntarily acquire citizenship of another country. According to the laws made by the Parliament under Article 11, Amit's Indian citizenship may be terminated. The Citizenship Act, 1955, provides the legal framework for this process, ensuring that Amit's change in citizenship status is handled according to the rules established by the Parliament.

Example 4:

The government of India decides to introduce a new category of citizenship for individuals who have made significant contributions to the country, such as through scientific research or cultural achievements. Article 11 allows the Parliament to create new provisions regarding citizenship, so the Parliament can pass a new law detailing the criteria and process for awarding this special category of citizenship.

### **PART III: FUNDAMENTAL RIGHTS**

#### **General**

#### **Article 12: Definition.**

In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

#### **Simplified act**

In this section, unless it clearly means something else, "the State" means:

The Government and Parliament of India,

The Government and Legislature of each State in India,

All local or other authorities within India or controlled by the Government of India.

Explanation using Example

Example 1:

Ravi, a resident of Maharashtra, feels that a new law passed by the Maharashtra State Legislature discriminates against a particular community. He decides to challenge this law in court. According to Article 12 of the Constitution of India, "the State" includes the Government and the Legislature of each of the States. Therefore, Ravi can file a petition against the Maharashtra State Legislature, arguing that the law violates the fundamental rights guaranteed under Part III of the Constitution.

Example 2:

An NGO in Delhi discovers that a local municipal corporation is not providing adequate sanitation facilities in a slum area, which they believe is a violation of the residents' right to live with dignity. The NGO decides to take legal action. Under Article 12, "the State" includes all local or other authorities within the territory of India. Hence, the NGO can file a Public Interest Litigation (PIL) against the municipal corporation, asserting that the lack of sanitation facilities infringes on the fundamental rights of the slum residents.

**Article 13: Laws inconsistent with or in derogation of the fundamental rights.**

(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires, -

(a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.

### **Simplified act**

(1) Any laws that were in effect in India before this Constitution started, if they go against the rules in this part of the Constitution, will be invalid to the extent that they conflict.

(2) The government cannot make any laws that take away or reduce the rights given by this part of the Constitution. If any law is made that goes against this rule, it will be invalid to the extent that it goes against it.

(3) In this article, unless it clearly means something else, -

(a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom, or practice that has the force of law in India;

(b) "laws in force" includes laws made by a Legislature or other authority in India before this Constitution started and that have not been repealed, even if they are not currently in effect everywhere or at all.

(4) This article does not apply to any changes made to this Constitution under article 368.

### **Explanation using Example**

#### **Example 1:**

Scenario: A state government in India had a law in place before the Constitution of India came into effect, which allowed for arbitrary arrest and detention without trial.

#### **Application of Article 13:**

Clause (1): Since this pre-existing law is inconsistent with the fundamental rights provided in Part III of the Constitution, specifically the right to life and

personal liberty under Article 21, it is rendered void to the extent of its inconsistency.

Outcome: The law allowing arbitrary arrest and detention without trial can no longer be enforced, and any such detentions would be illegal.

Example 2:

Scenario: The Parliament of India passes a new law that restricts freedom of speech and expression by imposing severe penalties on individuals who criticize the government.

Application of Article 13:

Clause (2): This new law abridges the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution.

Outcome: The law is in contravention of the rights conferred by Part III and, to the extent of this contravention, is void. Therefore, the penalties imposed by this law cannot be legally enforced.

Example 3:

Scenario: A local municipal corporation issues a bye-law that prohibits the assembly of more than five people in a public park without prior permission.

Application of Article 13:

Clause (3)(a): The term "law" includes bye-laws, so this municipal bye-law falls under the purview of Article 13.

Clause (2): If this bye-law infringes on the fundamental right to assemble peacefully without arms, as guaranteed under Article 19(1)(b), it would be void to the extent of this infringement.

Outcome: The restriction on assembly without prior permission would be invalid, and people would be free to assemble peacefully in the park.

Example 4:

Scenario: Before the Constitution came into effect, a customary practice in a certain region of India allowed for child marriage.

Application of Article 13:

Clause (3)(b): "Laws in force" include customs or usages having the force of law before the commencement of the Constitution.

Clause (1): Since child marriage is inconsistent with the fundamental rights, particularly the right to equality under Article 14 and the right to life and personal liberty under Article 21, this customary practice is void to the extent of its inconsistency.

Outcome: Child marriage, as a customary practice, cannot be legally recognized or enforced.

Example 5:

Scenario: The Indian Parliament amends the Constitution to introduce a new fundamental right to privacy.

Application of Article 13:

Clause (4): This article does not apply to any amendment of the Constitution made under Article 368.

Outcome: The amendment introducing the right to privacy is valid and not subject to the provisions of Article 13. Any laws inconsistent with this new fundamental right would be void to the extent of their inconsistency.

### **PART III: FUNDAMENTAL RIGHTS**

#### **RIGHT TO EQUALITY**

##### **Article 14: Equality before law.**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

##### **Simplified act**

The government must treat everyone equally and fairly under the law, and provide the same legal protection to all people within India.

Explanation using Example

Example 1:

Ravi and Priya, two citizens of India, apply for a government job. Ravi belongs to a higher caste, while Priya belongs to a lower caste. The government cannot deny Priya the job solely based on her caste. Both Ravi and Priya must be given

equal consideration based on their qualifications and merit, not their caste. This ensures that both individuals are treated equally before the law.

Example 2:

Aman, a wealthy businessman, and Raju, a street vendor, are both accused of the same crime. The police and judicial system must treat both Aman and Raju equally, regardless of their economic status. Aman cannot receive preferential treatment or a lighter sentence because of his wealth. Both must be given the same legal rights and protections, ensuring that justice is served fairly and impartially.

**Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.**

Article

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including

private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making, -

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation. - For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.

### **Simplified act**

#### Article

(1) The government cannot treat any citizen unfairly just because of their religion, race, caste, gender, or where they were born.

(2) No citizen should face any disadvantage or restriction just because of their religion, race, caste, gender, or where they were born when it comes to:

(a) going to shops, restaurants, hotels, and places of public entertainment; or

(b) using wells, tanks, bathing places, roads, and public places that are funded by the government or meant for public use.

(3) This rule does not stop the government from making special rules to help women and children.

(4) This rule and another rule (Article 29, Clause 2) do not stop the government from making special rules to help socially and educationally disadvantaged groups, or Scheduled Castes and Scheduled Tribes.



(5) This rule and another rule (Article 19, Clause 1, Sub-clause g) do not stop the government from making special rules, by law, to help socially and educationally disadvantaged groups, or Scheduled Castes and Scheduled Tribes, especially for their admission to educational institutions, including private ones, whether they get government aid or not, except for minority educational institutions mentioned in Article 30, Clause 1.

(6) This rule, another rule (Article 19, Clause 1, Sub-clause g), and another rule (Article 29, Clause 2) do not stop the government from making:

(a) special rules to help economically weaker sections of citizens not mentioned in Clauses (4) and (5); and

(b) special rules to help economically weaker sections of citizens not mentioned in Clauses (4) and (5) for their admission to educational institutions, including private ones, whether they get government aid or not, except for minority educational institutions mentioned in Article 30, Clause 1. If these special rules involve reservations, they can add up to a maximum of ten percent of the total seats in each category.

Explanation. - For this article and Article 16, "economically weaker sections" are defined by the government based on family income and other signs of economic disadvantage.

Explanation using Example

Example 1:

Ravi, a Hindu man, applies for a job at a government office in Delhi. During the interview, he is asked about his religion and is told that the office prefers to hire only people from a particular religion. Ravi can challenge this decision under Article 15(1) of the Constitution of India, which prohibits the State from discriminating against any citizen on the grounds of religion.

Example 2:

Ayesha, a Muslim woman, is denied entry to a public restaurant in Mumbai because of her religion. She can file a complaint under Article 15(2)(a) of the Constitution, which ensures that no citizen shall be subject to any restriction with regard to access to shops, public restaurants, hotels, and places of public entertainment on the grounds of religion.

Example 3:

Ramesh, a Dalit, is not allowed to use a public well in his village in Uttar Pradesh because of his caste. This is a violation of Article 15(2)(b) of the Constitution, which prohibits discrimination on the grounds of caste with regard to the use of wells, tanks, bathing ghats, roads, and places of public resort maintained wholly or partly out of State funds.

Example 4:

The government of Karnataka introduces a special scholarship program for girls from economically weaker sections to promote their education. This is permissible under Article 15(3) of the Constitution, which allows the State to make special provisions for women and children.

Example 5:

The State of Maharashtra implements a reservation policy for Scheduled Castes (SC) and Scheduled Tribes (ST) in educational institutions. This is allowed under Article 15(4) and 15(5) of the Constitution, which permit the State to make special provisions for the advancement of socially and educationally backward classes of citizens, including SCs and STs.

Example 6:

The government of Tamil Nadu introduces a reservation of 10% seats in educational institutions for economically weaker sections (EWS) of citizens who do not fall under SC, ST, or other backward classes. This is in accordance with Article 15(6) of the Constitution, which allows the State to make special provisions for the advancement of EWS, including reservations in educational institutions.

### **Article 16: Equality of opportunity in matters of public employment.**

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State

or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.

### **Simplified act**

(1) Everyone should have an equal chance to get a job or be appointed to a position in the government.

(2) No one should be denied a job or treated unfairly in government jobs because of their religion, race, caste, gender, family background, birthplace, or where they live.

(3) Parliament can make laws that require people to live in a certain state or union territory before they can get a government job there.

(4) The government can reserve some jobs for people from backward classes if they think these groups are not well-represented in government jobs.

(4A) The government can also reserve promotions in government jobs for Scheduled Castes and Scheduled Tribes if they are not well-represented.

(4B) If there are reserved job vacancies that were not filled in a particular year, the government can carry them over to the next year without affecting the overall limit of 50% reservation in that year.

(5) This article does not affect laws that require certain religious or denominational institutions to have leaders or governing body members who follow a specific religion or denomination.

(6) The government can also reserve up to 10% of jobs for economically weaker sections of citizens, in addition to the existing reservations.

#### Explanation using Example

##### Example 1:

Ravi, a highly qualified engineer from a small village in Uttar Pradesh, applies for a government job in the Public Works Department (PWD). Despite his qualifications, he is initially worried that he might be discriminated against because of his rural background and caste. However, under Article 16 of the Constitution of India, Ravi is assured that he will be given an equal opportunity for employment. The PWD cannot reject his application solely based on his caste or place of birth. Ravi is evaluated purely on his qualifications and performance in the selection process.

##### Example 2:

Ayesha, a Muslim woman, applies for a teaching position at a government school in Maharashtra. She fears that her religion and gender might affect her chances of getting the job. According to Article 16, Ayesha cannot be discriminated against on the grounds of religion or sex. The school must consider her application based on her educational qualifications and teaching experience, ensuring she has an equal opportunity for employment.

##### Example 3:

The state government of Tamil Nadu identifies that Scheduled Castes (SC) and Scheduled Tribes (ST) are underrepresented in the state police force. To address this, the government implements a reservation policy under Article 16(4) and 16(4A), reserving a certain percentage of positions for SC and ST candidates. This ensures that these communities have better representation in the police force, promoting equality of opportunity.

Example 4:

Rajesh, a resident of Delhi, applies for a clerical position in the Delhi Municipal Corporation. The job posting specifies that applicants must have been residents of Delhi for at least five years. This requirement is permissible under Article 16(3), which allows the Parliament to make laws prescribing residence requirements for certain positions within a state or union territory.

Example 5:

The government of India introduces a new policy to reserve 10% of government job vacancies for economically weaker sections (EWS) of citizens who are not covered under existing reservations for SC, ST, and Other Backward Classes (OBC). This is in accordance with Article 16(6), which allows for such reservations to ensure that economically disadvantaged individuals also have equal opportunities in public employment.

Example 6:

A religious institution in Kerala requires that the head priest must be a Hindu. This requirement is protected under Article 16(5), which allows religious or denominational institutions to mandate that certain positions be held by individuals professing a particular religion. This ensures that the religious practices and traditions of the institution are maintained.

### **Article 17: Abolition of Untouchability.**

"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

### **Simplified act**

"Untouchability" is completely banned and no one is allowed to practice it in any way.

If anyone tries to enforce any kind of discrimination because of "Untouchability," it will be considered a crime and they will be punished according to the law.

Explanation using Example

Example 1:

Ramesh, a member of a Scheduled Caste, applies for a job at a local restaurant. The restaurant owner, Mr. Sharma, refuses to hire Ramesh solely because of his caste. Ramesh files a complaint under Article 17 of the Constitution of India. The court finds Mr. Sharma guilty of practicing untouchability and imposes a fine and a mandatory sensitivity training program for all employees at the restaurant.

Example 2:

Sita, a Dalit woman, is denied entry into a temple by the temple authorities because of her caste. She reports the incident to the local police. The police investigate and charge the temple authorities under Article 17. The court rules in favor of Sita, ordering the temple authorities to allow entry to all individuals regardless of caste and imposes a penalty on the authorities for practicing untouchability.

### **Article 18: Abolition of titles.**

- (1) No title, not being a military or academic distinction, shall be conferred by the State.
- (2) No citizen of India shall accept any title from any foreign State.
- (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
- (4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

### **Simplified act**

- (1) The government cannot give out any titles, except for military or academic honors.

(2) Indian citizens cannot accept any titles from foreign countries.

(3) Non-Indian citizens working in important government jobs cannot accept titles from foreign countries without the President's permission.

(4) People working in important government jobs cannot accept gifts, payments, or jobs from foreign countries without the President's permission.

Explanation using Example

Example 1:

Scenario: Dr. Ramesh, a renowned scientist in India, is offered the title of "Sir" by the British government for his contributions to science.

Application of Article 18:

According to Article 18(2), Dr. Ramesh, being an Indian citizen, cannot accept the title "Sir" from the British government.

If Dr. Ramesh wishes to accept the title, he must first renounce his Indian citizenship.

Example 2:

Scenario: Ms. Priya, an Indian diplomat working in the Indian Embassy in France, is offered the title of "Chevalier" by the French government for her diplomatic services.

Application of Article 18:

As per Article 18(4), Ms. Priya, holding an office of profit under the Indian State, cannot accept the title "Chevalier" from the French government without the consent of the President of India.

Ms. Priya must seek and obtain the President's consent before accepting the title.

Example 3:

Scenario: Mr. Arjun, an Indian citizen, is awarded an honorary doctorate by a prestigious university in the United States.

Application of Article 18:

Since an honorary doctorate is considered an academic distinction, it is exempt under Article 18(1).

Mr. Arjun can accept the honorary doctorate without any legal issues.

Example 4:

Scenario: Mr. John, a British citizen working as an advisor to the Indian government, is offered the title of "Lord" by the British government.

Application of Article 18:

According to Article 18(3), Mr. John, while holding an office of profit or trust under the Indian State, cannot accept the title "Lord" from the British government without the consent of the President of India.

Mr. John must seek and obtain the President's consent before accepting the title.

Example 5:

Scenario: Mr. Raj, an Indian citizen and a retired army officer, is offered the title of "General" by a foreign country in recognition of his military service.

Application of Article 18:

Since the title "General" is a military distinction, it is exempt under Article 18(1).

Mr. Raj can accept the title without any legal issues.

## **Article 19: Protection of certain rights regarding freedom of speech, etc.**

Rights of Citizens

(1) All citizens shall have the right -

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions or co-operative societies;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and



(f) \* \* \* \*

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, -

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

## Simplified act

### Rights of Citizens

(1) Every citizen has the right to:

- (a) Speak and express themselves freely.
- (b) Gather peacefully without weapons.
- (c) Form groups, unions, or co-operative societies.
- (d) Travel freely anywhere in India.
- (e) Live and settle in any part of India.
- (f) \* \* \* \*

(g) Practice any profession, or run any business or trade.

(2) The right to free speech (mentioned in 1(a)) can be limited by laws that protect India's sovereignty, security, friendly relations with other countries, public order, decency, morality, or prevent contempt of court, defamation, or incitement to crime.

(3) The right to gather peacefully (mentioned in 1(b)) can be limited by laws that protect India's sovereignty, integrity, or public order.

(4) The right to form groups (mentioned in 1(c)) can be limited by laws that protect India's sovereignty, integrity, public order, or morality.

(5) The rights to travel and settle anywhere in India (mentioned in 1(d) and 1(e)) can be limited by laws that protect the general public or the interests of Scheduled Tribes.

(6) The right to practice any profession or run any business (mentioned in 1(g)) can be limited by laws that protect the general public. Specifically, this right can be limited by laws that:

- (i) Set the necessary professional or technical qualifications for certain jobs or businesses.
- (ii) Allow the government or government-controlled corporations to run certain trades, businesses, industries, or services, even if it means excluding citizens from doing so.

## Explanation using Example

### Example 1:

#### Scenario: Freedom of Speech and Expression

Situation: Ramesh, a journalist, writes an article criticizing the government's handling of a recent flood disaster. He publishes the article in a national newspaper.

Application of Article 19(1)(a): Ramesh is exercising his right to freedom of speech and expression by writing and publishing the article. This right is protected under Article 19(1)(a) of the Constitution of India.

Limitations: If Ramesh's article includes false information that incites violence or disrupts public order, the government can impose reasonable restrictions under Article 19(2) to maintain public order and security.

### Example 2:

#### Scenario: Right to Assemble Peaceably and Without Arms

Situation: A group of environmental activists plans a peaceful protest in Delhi to raise awareness about climate change. They gather in a public park without any weapons.

Application of Article 19(1)(b): The activists are exercising their right to assemble peaceably and without arms, as guaranteed by Article 19(1)(b) of the Constitution of India.

Limitations: If the protest turns violent or disrupts public order, the government can impose reasonable restrictions under Article 19(3) to ensure public safety and order.

### Example 3:

#### Scenario: Right to Form Associations or Unions

Situation: A group of teachers in Mumbai decides to form a teachers' union to advocate for better working conditions and salaries.

Application of Article 19(1)(c): The teachers are exercising their right to form associations or unions, as protected by Article 19(1)(c) of the Constitution of India.

Limitations: If the union engages in activities that threaten the sovereignty and integrity of India or public order, the government can impose reasonable restrictions under Article 19(4).

Example 4:

Scenario: Right to Move Freely Throughout the Territory of India

Situation: Priya, a software engineer from Chennai, gets a job offer in Bangalore and decides to move there for better career opportunities.

Application of Article 19(1)(d): Priya is exercising her right to move freely throughout the territory of India, as guaranteed by Article 19(1)(d) of the Constitution of India.

Limitations: If there are specific laws in place to protect the interests of Scheduled Tribes in certain areas, Priya may face reasonable restrictions under Article 19(5).

Example 5:

Scenario: Right to Practise Any Profession, or to Carry on Any Occupation, Trade or Business

Situation: Anil, a qualified doctor, decides to open his own clinic in his hometown.

Application of Article 19(1)(g): Anil is exercising his right to practise any profession or to carry on any occupation, trade, or business, as protected by Article 19(1)(g) of the Constitution of India.

Limitations: Anil must meet the professional or technical qualifications necessary for practising as a doctor. The government can impose reasonable restrictions under Article 19(6) to ensure public health and safety.

## **Article 20: Protection in respect of conviction for offences.**

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

### **Simplified act**

(1) No one can be found guilty of a crime unless they broke a law that was in place when they did the act. Also, they can't be given a punishment harsher than what the law allowed at that time.

(2) No one can be tried and punished for the same crime more than once.

(3) No one accused of a crime can be forced to testify against themselves.

Explanation using Example

Example 1:

Scenario: Rajesh was accused of a crime in 2010, for which the maximum penalty was 5 years in prison. In 2022, the law was amended, and the penalty for the same crime was increased to 10 years in prison. Rajesh's trial is still ongoing in 2023.

Application of Article 20(1): Rajesh cannot be sentenced to more than 5 years in prison because the law at the time of the crime in 2010 prescribed a maximum penalty of 5 years. The increased penalty of 10 years, which came into effect in 2022, cannot be applied to Rajesh's case.

Example 2:

Scenario: Priya was tried and acquitted for theft in 2018. In 2021, new evidence surfaced, and the police want to prosecute her again for the same theft.

Application of Article 20(2): Priya cannot be prosecuted and punished again for the same theft for which she was already acquitted in 2018. This is because Article 20(2) protects individuals from being tried and punished more than once for the same offence.

Example 3:

Scenario: Sunil is accused of embezzlement. During the investigation, the police demand that Sunil testify against himself and provide evidence that could incriminate him.

Application of Article 20(3): Sunil cannot be compelled to be a witness against himself. He has the right to remain silent and cannot be forced to provide evidence or testimony that could be used to convict him of the embezzlement charges.

### **Article 21: Protection of life and personal liberty.**

- No person shall be deprived of his life or personal liberty except according to procedure established by law.

#### **Simplified act**

No one can take away a person's life or freedom unless it is done through a legal process.

Explanation using Example

Example 1:

Ravi, a resident of Delhi, was arrested by the police without any warrant or proper legal procedure. He was kept in custody for several days without being presented before a magistrate. Ravi's family filed a petition in the High Court, arguing that his detention violated Article 21 of the Constitution of India. The court ruled in favor of Ravi, stating that his right to personal liberty was infringed upon as he was not detained according to the procedure established by law. The court ordered his immediate release and directed the police to follow proper legal procedures in the future.

Example 2:

Meera, a journalist, wrote an article exposing corruption in a government department. In retaliation, the authorities detained her without any formal charges or trial. Meera's lawyer filed a habeas corpus petition, claiming that her detention was illegal and violated her right to personal liberty under Article 21. The Supreme Court reviewed the case and found that Meera's detention was arbitrary and not in accordance with the procedure established by law. The court ordered her release and emphasized the importance of following due process to protect individual freedoms.

Example 3:

Arjun, a farmer from Maharashtra, was forcefully evicted from his land by a private company without any legal notice or compensation. Arjun approached the court, arguing that his right to life and personal liberty under Article 21 was violated as he was deprived of his livelihood and shelter without following the due process of law. The court ruled in Arjun's favor, stating that the eviction was illegal and ordered the company to compensate Arjun and restore his land. The court highlighted that the right to life includes the right to livelihood and shelter, and any deprivation must follow the legal procedure.

Example 4:

Sita, a school teacher, was diagnosed with a life-threatening illness and required immediate medical treatment. However, the government hospital refused to admit her due to a lack of beds. Sita's family filed a petition in the court, arguing that the denial of medical treatment violated her right to life under Article 21. The court directed the hospital to provide immediate medical care to Sita, stating that the right to life includes the right to timely medical treatment and that the state has an obligation to ensure access to healthcare facilities.

### **Article 21A: Right to education.**

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

### **Simplified act**

The government must ensure that all children between the ages of six and fourteen receive free and mandatory education, according to the rules set by the government.

Explanation using Example

Example 1:

Ravi is a 10-year-old boy living in a small village in India. His parents are daily wage laborers and cannot afford to send him to a private school. Under Article 21A of the Constitution of India, Ravi is entitled to free and compulsory education. The local government school in his village must admit him without charging any fees and provide him with the necessary educational materials. If the school refuses to admit Ravi or charges fees, his parents can file a complaint with the local education authorities, who are legally obligated to ensure Ravi's right to education is upheld.

## Example 2:

Meena is a 7-year-old girl living in an urban slum in Mumbai. Her parents are unaware of their rights under Article 21A of the Constitution of India. A local NGO informs them that Meena is entitled to free and compulsory education. The NGO helps Meena's parents enroll her in the nearest government school. The school provides Meena with textbooks, uniforms, and mid-day meals at no cost. If the school fails to provide these essentials, the NGO can take legal action to ensure Meena's right to education is protected, ensuring she receives the education she is entitled to under the law.

### **Article 22: Protection against arrest and detention in certain cases.**

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply -

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless -

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or



(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe -

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

### **Simplified act**

(1) If someone is arrested, they must be told why they are being arrested as soon as possible. They also have the right to talk to and be defended by a lawyer of their choice.

(2) Anyone who is arrested must be brought before the nearest judge within 24 hours, not counting the time it takes to travel to the court. They cannot be kept in custody longer than this without the judge's permission.

(3) The rules in points (1) and (2) do not apply to:

(a) someone who is considered an enemy of the state; or

(b) someone who is arrested under a law that allows for preventive detention (detaining someone to prevent them from committing a future crime).

(4) A law that allows for preventive detention cannot keep someone detained for more than three months unless:

(a) an Advisory Board, made up of people who are or can be High Court judges, says there is a good reason for the detention before the three months are up:

Provided that this rule does not allow anyone to be detained longer than the maximum period set by any law made by Parliament under sub-clause (b) of clause (7); or

\* (b) the person is detained according to a law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When someone is detained under a preventive detention law, the authority that made the order must tell the person why they are being detained as soon as possible and give them a chance to challenge the detention.

(6) The authority does not have to share any information that they believe would be against the public interest to disclose.

(7) Parliament can make laws to:

(a) specify the situations and types of cases where a person can be detained for more than three months under a preventive detention law without the Advisory Board's opinion as mentioned in sub-clause (a) of clause (4);

(b) set the maximum time someone can be detained under a preventive detention law for different types of cases; and

(c) outline the procedure the Advisory Board should follow in their inquiry under sub-clause (a) of clause (4).

Explanation using Example

Example 1:

Ravi, a resident of Delhi, is arrested by the police on suspicion of theft. As per Article 22(1) of the Constitution of India, the police must inform Ravi of the grounds for his arrest immediately. Ravi is also entitled to consult and be defended by a lawyer of his choice. The police cannot deny him this right.

Example 2:

Priya is arrested in Mumbai for allegedly participating in a protest. According to Article 22(2), the police must produce Priya before the nearest magistrate

within 24 hours of her arrest, excluding the time taken to travel from the place of arrest to the court. If the police fail to do so, Priya's detention becomes illegal.

Example 3:

Arjun, a foreign national from a country at war with India, is arrested in Chennai. As per Article 22(3)(a), the protections under clauses (1) and (2) do not apply to Arjun because he is considered an enemy alien.

Example 4:

Meera is detained under a preventive detention law in Kolkata. According to Article 22(4), she cannot be detained for more than three months unless an Advisory Board, consisting of qualified judges, reviews her case and finds sufficient cause for her continued detention. If the Advisory Board does not approve, Meera must be released after three months.

Example 5:

Rajesh is detained under a preventive detention order in Bangalore. As per Article 22(5), the authority that issued the detention order must inform Rajesh of the grounds for his detention as soon as possible and give him an opportunity to make a representation against the order. However, under Article 22(6), the authority is not required to disclose any facts that it considers against the public interest.

Example 6:

The Parliament enacts a law specifying that certain individuals can be detained for more than three months without the Advisory Board's opinion under specific circumstances. This is in accordance with Article 22(7)(a). The same law also sets the maximum period for which a person can be detained under preventive detention and outlines the procedure the Advisory Board must follow during its inquiry, as per Article 22(7)(b) and (c).

### **PART III: FUNDAMENTAL RIGHTS**

#### **RIGHT AGAINST EXPLOITATION**

**Article 23: Prohibition of traffic in human beings and forced labour.**

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

### **Simplified act**

(1) It is illegal to buy, sell, or force people to work against their will, including making them beg. Anyone who breaks this rule will be punished according to the law.

(2) The government can require people to do certain jobs for the public good, but it cannot choose people for these jobs based on their religion, race, caste, or social class.

#### Explanation using Example

##### Example 1:

Rahul is a 14-year-old boy from a small village in Uttar Pradesh. He was promised a good job in a city by a local agent. However, once he reached the city, he was forced to work in a factory under terrible conditions without pay. His movements were restricted, and he was not allowed to leave. This situation falls under the prohibition of human trafficking and forced labour as per Article 23(1) of the Constitution of India. Rahul's parents reported the case to the local authorities, leading to the rescue of Rahul and the arrest of the traffickers, who were then prosecuted under the law.

##### Example 2:

In a rural area of Bihar, a large landowner forces villagers to work on his fields without any wages, using threats of violence to ensure compliance. This practice is known as 'begar' and is explicitly prohibited under Article 23(1) of the Constitution of India. Upon investigation by a non-governmental organization (NGO), the case is brought to the attention of the police, who take action against the landowner. The villagers are freed from the forced labour, and the landowner is charged and punished according to the law.

##### Example 3:

During a natural disaster in Kerala, the state government requires able-bodied citizens to assist in rescue operations and rebuilding efforts. The government issues a directive mandating participation in these public services. This compulsory service is legal under Article 23(2) of the Constitution of India, as it is for public purposes and does not discriminate based on religion, race, caste, or class.

Example 4:

An organized crime syndicate is involved in the trafficking of women from Nepal to India, forcing them into prostitution in major cities. Law enforcement agencies, upon receiving intelligence, conduct raids and rescue the victims. The traffickers are arrested and charged under the provisions of Article 23(1) of the Constitution of India, which prohibits trafficking in human beings and forced labour. The victims are provided with rehabilitation and support services to reintegrate into society.

#### **Article 24: Prohibition of employment of children in factories, etc.**

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

#### **Simplified act**

Children who are younger than fourteen years old are not allowed to work in factories, mines, or any other dangerous jobs.

Explanation using Example

Example 1:

Ravi is a 12-year-old boy living in a small village in India. His family is struggling financially, and a local factory owner offers Ravi a job to help support his family. The job involves working with heavy machinery and handling chemicals. According to Article 24 of the Constitution of India, Ravi cannot be legally employed in this factory because he is below the age of fourteen and the work is considered hazardous.

Example 2:

Sita is a 13-year-old girl who lives in a rural area. Her parents want her to work in a nearby mine to earn extra income for the family. The mine involves digging and handling explosives, which are dangerous activities. Under Article

24 of the Constitution of India, Sita cannot be employed in the mine because she is under the age of fourteen and the work is hazardous.

**Article 25: Freedom of conscience and free profession, practice and propagation of religion.**

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law -

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I. - The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II. - In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

**Simplified act**

Article

(1) As long as it doesn't disturb public order, morality, or health, and follows the other rules in this section, everyone has the right to their own beliefs and can freely practice and spread their religion.

(2) This article does not change any existing laws or stop the government from making laws that:

(a) control or limit any non-religious activities that are connected to religious practices, like economic, financial, or political activities;

(b) improve social welfare and reform, or allow all Hindus to access Hindu religious places that are open to the public, regardless of their class or group.

Explanation I. - Wearing and carrying kirpans (a type of ceremonial sword) is considered part of practicing the Sikh religion.

Explanation II. - In part (b) of section (2), "Hindus" also includes people who follow the Sikh, Jain, or Buddhist religions, and "Hindu religious institutions" should be understood in the same way.

Explanation using Example

Example 1:

Ravi, a Hindu, decides to open a small temple in his village where he can practice and propagate his religious beliefs. According to Article 25 of the Constitution of India, Ravi has the right to freely profess, practice, and propagate his religion. However, he must ensure that his activities do not disrupt public order, morality, or health. For instance, if Ravi's temple activities involve loud chanting late at night, the local authorities can regulate this to maintain public order.

Example 2:

A Sikh student named Harpreet wants to wear a kirpan (a ceremonial sword) to his school as part of his religious practice. According to Explanation I of Article 25, the wearing and carrying of kirpans is included in the profession of the Sikh religion. Therefore, Harpreet has the right to wear his kirpan to school, provided it does not pose a threat to public safety or order.

Example 3:

The government decides to implement a law that regulates the financial transactions of religious institutions to prevent money laundering. According to clause (2)(a) of Article 25, the State has the authority to regulate or restrict any economic, financial, political, or other secular activity associated with religious practice. This means that while religious institutions can continue their religious activities, their financial dealings can be regulated by the government to ensure transparency and legality.

Example 4:

A Jain community wants to open a public temple that welcomes all sections of society, including people from different castes and backgrounds. According to clause (2)(b) of Article 25, the State can make laws to ensure that Hindu religious institutions of a public character are open to all classes and sections

of Hindus. This clause is also applicable to Jains, as per Explanation II, which means the temple must be accessible to everyone, promoting social welfare and reform.

Example 5:

A Buddhist monk named Tenzin wants to propagate his religion by distributing pamphlets and holding public talks in a park. According to Article 25, Tenzin has the right to propagate his religion. However, he must ensure that his activities do not disturb public order or violate any local regulations regarding the use of public spaces. If his activities are peaceful and do not cause any disruption, he is within his rights to continue.

Example 6:

The government introduces a law that mandates all religious institutions to provide basic amenities like clean drinking water and sanitation facilities to visitors. According to clause (2)(b) of Article 25, the State can make laws for social welfare and reform. This law ensures that religious institutions maintain a certain standard of hygiene and public health, benefiting all visitors regardless of their religion.

**Article 26: Freedom to manage religious affairs.**

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right -

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

**Simplified act**

As long as it doesn't disturb public order, morality, or health, every religious group or part of it has the right to:

- (a) set up and run places for religious and charitable activities;
- (b) handle its own religious matters;



(c) own and buy both movable (like cars) and immovable (like land) property; and

(d) manage this property according to the law.

Explanation using Example

Example 1:

The Sikh community in a town decides to establish a new Gurudwara (Sikh temple) and a charitable hospital. They raise funds from the community and purchase land for these purposes. According to Article 26 of the Constitution of India, they have the right to establish and maintain these institutions for religious and charitable purposes (clause a). They also have the right to manage the religious affairs of the Gurudwara, such as conducting prayers, organizing religious events, and appointing religious leaders (clause b). Additionally, they can own the land and buildings (movable and immovable property) and administer them in accordance with the law (clauses c and d).

Example 2:

A Hindu temple in a village owns a large piece of land and several buildings. The temple committee decides to use part of the land to build a school for underprivileged children. According to Article 26, the temple has the right to own and acquire property (clause c) and to administer this property in accordance with the law (clause d). The temple committee can manage the school and ensure it aligns with their religious and charitable goals. They can also make decisions about the curriculum, hire teachers, and manage the finances of the school, as long as these actions do not violate public order, morality, or health regulations.

Article 27: Freedom as to payment of taxes for promotion of any particular religion.

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

### **Simplified act**

No one can be forced to pay taxes that are used specifically to support or maintain any particular religion or religious group.

## Explanation using Example

### Example 1:

Ravi, a resident of Maharashtra, receives a notice from the local municipal corporation stating that a new tax is being levied on all residents to fund the construction and maintenance of a temple dedicated to a specific Hindu deity. Ravi, who practices a different religion, challenges this notice in court. The court rules in Ravi's favor, citing Article 27 of the Constitution of India, which prohibits the government from compelling any person to pay taxes specifically for the promotion or maintenance of any particular religion.

### Example 2:

A state government in India decides to introduce a special tax on all businesses within the state to fund the activities of a religious festival organized by a particular religious group. Priya, who owns a small business and does not follow that religion, refuses to pay the tax. She files a petition in the High Court, arguing that the tax violates her fundamental rights under Article 27 of the Constitution of India. The High Court agrees with Priya, stating that the government cannot impose a tax whose proceeds are used exclusively for the promotion of a specific religion.

### **Article 28: Freedom as to attendance at religious instruction or religious worship in certain educational institutions.**

(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

### **Simplified act**

(1) Schools and colleges that are completely funded by the government cannot provide religious teachings.

(2) The rule in point (1) does not apply to schools or colleges that are run by the government but were set up with money from a donation or trust that specifically requires religious teachings.

(3) No one who goes to a school or college that is recognized by the government or gets government funding has to participate in religious teachings or attend religious ceremonies unless they, or their guardian if they are underage, agree to it.

#### Explanation using Example

##### Example 1:

Rahul is a student at a government school in Delhi, which is fully funded by the State. One day, the school administration decides to introduce Hindu religious classes as part of the curriculum. Rahul's parents, who follow a different religion, object to this decision. According to Article 28(1) of the Constitution of India, the school cannot provide any religious instruction since it is wholly maintained out of State funds. Therefore, the school must cancel the religious classes to comply with the law.

##### Example 2:

St. Mary's School in Mumbai is a Christian missionary school that receives partial funding from the State but was established under a trust that mandates the teaching of Christian values and religious instruction. According to Article 28(2), the prohibition on religious instruction does not apply to this school because it was established under a trust that requires religious instruction. However, under Article 28(3), the school cannot compel any student to attend these religious classes or participate in religious worship without the consent of the student or, in the case of minors, their guardians. If a Hindu student named Priya attends St. Mary's School, she cannot be forced to participate in Christian religious activities unless her parents give their consent.

##### Example 3:

A public university in Karnataka, which receives substantial State funding, decides to organize a weekly prayer session in the university chapel. Some students feel uncomfortable participating in these sessions due to their different religious beliefs. According to Article 28(3), no student can be required

to attend any religious worship conducted in the institution or its premises without their consent. Therefore, the university must ensure that attendance at the prayer sessions is entirely voluntary and that no student is penalized for choosing not to participate.

### **PART III: FUNDAMENTAL RIGHTS**

#### **CULTURAL AND EDUCATIONAL RIGHTS**

##### **Article 29: Protection of interests of minorities.**

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

#### **Simplified act**

(1) Any group of people living in India who have their own unique language, writing style, or culture have the right to keep and protect it.

(2) No one can be refused entry to any school or college that is run by the government or gets money from the government just because of their religion, race, caste, or language.

Explanation using Example

Example 1:

The Tamil-speaking community in Maharashtra has a distinct language and culture. They decide to establish a cultural center to teach Tamil language, literature, and traditional arts to their children. According to Article 29(1) of the Constitution of India, they have the right to conserve their language and culture. The state government cannot interfere with their efforts to preserve their cultural heritage.

Example 2:

A student named Ayesha, who belongs to a minority community, applies for admission to a government-funded college in Delhi. The college administration

initially denies her admission solely because she speaks Urdu and follows a different religion. According to Article 29(2) of the Constitution of India, Ayesha cannot be denied admission on the grounds of her religion or language. She has the right to be admitted to the educational institution without discrimination.

**Article 30: Right of minorities to establish and administer educational institutions.**

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

\* \* \* \*

**Simplified act**

(1) All minority groups, whether they are based on religion or language, have the right to set up and run their own educational institutions.

(1A) If the government makes a law to take over any property of an educational institution run by a minority group, as mentioned in point (1), the government must ensure that the compensation for the property is fair and does not take away the rights guaranteed in point (1).

(2) When the government provides financial aid to educational institutions, it must not discriminate against any institution just because it is managed by a minority group, whether based on religion or language.

Explanation using Example

Example 1:

The Sikh community in a small town in Punjab decides to establish a school that focuses on teaching Punjabi language and Sikh religious studies, alongside the standard curriculum prescribed by the state education board. They set up "Guru Nanak Public School" and manage it independently. According to Article 30(1) of the Constitution of India, the Sikh community has the right to establish and administer this educational institution without interference from the state, as they are a minority based on religion.

Example 2:

A Christian minority group in Kerala runs "St. Mary's High School," which has been providing quality education for decades. The state government decides to acquire the land on which the school is built for a public infrastructure project. According to Article 30(1A), the government must ensure that the compensation provided for the acquisition of the property is fair and does not undermine the minority group's right to run the school. The compensation must be adequate to allow the minority group to continue their educational activities without significant disruption.

Example 3:

A linguistic minority group in Karnataka, whose primary language is Tulu, establishes "Tulu Academy School" to promote and teach the Tulu language and culture. The school applies for financial aid from the state government to improve its facilities. According to Article 30(2), the state government cannot deny the aid solely because the school is managed by a linguistic minority. The school should be considered for aid on the same basis as any other educational institution in the state.

### **Article 31: Compulsory acquisition of property: Omitted.**

Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 6 (with effect from 20-6-1979).

### **Simplified act**

Removed by the Constitution (Forty-fourth Amendment) Act, 1978, section 6 (effective from June 20, 1979).

Explanation using Example

Example 1:

Before the Forty-fourth Amendment in 1978, imagine the government decided to build a new highway that would pass through a village. To construct the highway, the government needed to acquire land from the villagers. Under the original Article 31, the government had the power to compulsorily acquire property for public purposes, but it had to provide compensation to the landowners.

However, after the Forty-fourth Amendment, Article 31 was omitted. Now, the government still has the power to acquire land for public purposes, but the process and rights of the landowners are governed by other laws, such as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This ensures that landowners receive fair compensation and have a say in the acquisition process.

Example 2:

Consider a scenario where the government wants to acquire land to build a new school in a rural area. Before the Forty-fourth Amendment, Article 31 allowed the government to compulsorily acquire the land, provided they compensated the landowners. This meant that the landowners had limited options to contest the acquisition.

Post the Forty-fourth Amendment, with Article 31 omitted, the land acquisition process is now more transparent and fair. The government must follow the procedures laid out in the Land Acquisition Act, 2013, which includes conducting a social impact assessment, obtaining consent from a certain percentage of affected families, and ensuring fair compensation. This change empowers landowners and ensures their rights are protected during the acquisition process.

### **PART III: FUNDAMENTAL RIGHTS**

#### **SAVING OF CERTAIN LAWS**

##### **Article 31A: Saving of Laws providing for acquisition of estates, etc.**

Article Title

(1) Notwithstanding anything contained in article 13, no law providing for -

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article, -

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include -

(i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

(ii) any land held under ryotwari settlement;



(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue.

### **Simplified act**

#### Article Title

(1) Despite what is mentioned in article 13, no law that provides for the following will be considered invalid just because it conflicts with or reduces the rights given by article 14 or article 19:

(a) The State taking over any property or rights related to it, or changing or ending those rights.

(b) The State managing any property for a limited time for public interest or to ensure proper management.

(c) The merging of two or more companies for public interest or to ensure proper management.

(d) The ending or changing of rights of managing agents, secretaries, treasurers, managing directors, directors, or managers of companies, or the voting rights of shareholders.

(e) The ending or changing of rights from any agreement, lease, or license for searching or extracting minerals or mineral oil, or ending such agreements early.

However, if such a law is made by a State Legislature, it will only apply if the President has approved it.

Additionally, if a law allows the State to take over any property, and if the land is being personally farmed by someone, the State cannot take any part of that land within the legal limit or any building on it unless the law provides for compensation at least equal to the market value.

(2) In this article:

(a) The term "estate" means the same as it does in local land laws and includes:

(i) Any jagir, inam, muafi, or similar grant, and in Tamil Nadu and Kerala, any janmam right.

(ii) Any land under ryotwari settlement.

(iii) Any land used for agriculture or related purposes, including waste land, forest land, pasture land, or sites of buildings occupied by farmers, agricultural workers, and village artisans.

(b) The term "rights" related to an estate includes any rights of owners, sub-owners, tenants, farmers, and any rights or privileges related to land revenue.

Explanation using Example

Example 1:

The government of Maharashtra decides to acquire a large estate owned by a private individual for the purpose of building a public hospital. The estate includes agricultural land, a forest area, and a small village. Under Article 31A, the acquisition of this estate by the State is protected, even if it affects the rights of the landowner. The law providing for this acquisition will not be deemed void even if it conflicts with the rights conferred by Article 14 (Right to Equality) or Article 19 (Right to Freedom).

Example 2:

The State of Karnataka enacts a law to take over the management of a mismanaged private corporation that owns several properties, including agricultural land and buildings. The takeover is intended to ensure proper management and is in the public interest. According to Article 31A, this law will not be considered void even if it affects the rights of the corporation's directors or shareholders under Article 14 or Article 19.

Example 3:

The government of Tamil Nadu decides to amalgamate two struggling agricultural corporations to improve efficiency and management. The law facilitating this amalgamation affects the rights of the managing directors and shareholders of these corporations. Under Article 31A, this law is protected and will not be invalidated due to any inconsistency with Article 14 or Article 19.

Example 4:

A mining company in Rajasthan has a lease agreement with the State to extract minerals. The State enacts a law to prematurely terminate this lease in the public interest to prevent environmental degradation. According to Article 31A, this law will not be deemed void even if it affects the company's rights under Article 14 or Article 19.

Example 5:

The government of Uttar Pradesh enacts a law to acquire land from a large estate for a public housing project. The land includes areas under personal cultivation by the landowner. However, the law ensures that any land within the ceiling limit and any buildings on it are compensated at market value. This provision complies with Article 31A, ensuring that the acquisition is lawful and the landowner is fairly compensated.

### **Article 31B: Validation of certain Acts and Regulations.**

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

### **Simplified act**

Even though Article 31A has general rules, none of the laws or regulations listed in the Ninth Schedule will be considered invalid or have ever been invalid.

This is true even if those laws or regulations conflict with or reduce any rights given by this part of the Constitution.

This remains the case no matter what any court or tribunal has decided.

These laws and regulations will stay in effect unless a proper legislative body decides to change or cancel them.

Explanation using Example

Example 1:

Scenario: The government of a state in India passes a law that redistributes agricultural land to landless farmers. This law is added to the Ninth Schedule of the Constitution.

Application of Article 31B: A group of wealthy landowners challenges the law in court, claiming that it violates their fundamental right to property under Article 19(1)(f) of the Constitution.

Outcome: Due to Article 31B, the law remains valid and enforceable despite the challenge. The court cannot declare the law void on the grounds that it infringes upon the fundamental rights of the landowners because the law is protected under the Ninth Schedule.

#### Example 2:

Scenario: The central government enacts a regulation that imposes certain restrictions on the use of forest land to protect the environment. This regulation is included in the Ninth Schedule.

Application of Article 31B: A corporation that owns a large tract of forest land files a petition in the Supreme Court, arguing that the regulation violates their right to carry on any occupation, trade, or business under Article 19(1)(g) of the Constitution.

Outcome: Article 31B ensures that the regulation remains valid and cannot be struck down by the court on the basis that it infringes upon the corporation's fundamental rights. The regulation continues to be in force, safeguarding the environmental interests as intended by the government.

#### Example 3:

Scenario: A state government passes a law that reserves a certain percentage of seats in educational institutions for students from economically weaker sections. This law is added to the Ninth Schedule.

Application of Article 31B: Some students who do not fall under the reserved category challenge the law, claiming it violates their right to equality under Article 14 of the Constitution.

Outcome: Article 31B protects the law from being invalidated on the grounds of violating fundamental rights. The reservation policy remains in effect, ensuring that students from economically weaker sections receive the intended benefits.

#### Example 4:

Scenario: The central government enacts a law that nationalizes a particular industry to ensure equitable distribution of resources. This law is included in the Ninth Schedule.

Application of Article 31B: Private companies operating in that industry challenge the law, arguing that it infringes upon their right to practice any profession or to carry on any occupation, trade, or business under Article 19(1)(g) of the Constitution.

Outcome: Article 31B ensures that the nationalization law remains valid and cannot be declared void by the court on the grounds of violating fundamental rights. The law continues to be in force, allowing the government to manage the industry for public welfare.

### **Article 31C: Saving of laws giving effect to certain directive principles.**

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

### **Simplified act**

Even though Article 13 says otherwise, any law that aims to follow the government's policy to achieve the goals mentioned in Part IV of the Constitution will not be considered invalid just because it conflicts with or limits the rights given by Article 14 or Article 19. Also, if a law states that it is meant to follow this policy, no court can question it on the basis that it does not actually follow the policy.

However, if such a law is made by a State Legislature, this rule will only apply if the law has been sent to the President for approval and has received his consent.

Explanation using Example

### Example 1:

The government of a state in India passes a law to implement land reforms aimed at redistributing land to landless farmers. This law is designed to give effect to the Directive Principles of State Policy under Part IV of the Constitution, which includes the aim of securing a social order for the promotion of the welfare of the people.

A group of wealthy landowners challenges the law in court, arguing that it violates their fundamental rights under Article 14 (Right to Equality) and Article 19 (Right to Property). However, because the law is intended to implement the Directive Principles, Article 31C protects it from being declared void on these grounds. The court upholds the law, stating that it cannot be questioned as it has received the President's assent and is aimed at achieving the state's policy objectives.

### Example 2:

The central government enacts a law to provide free and compulsory education to all children up to the age of 14, in line with the Directive Principles of State Policy. This law mandates that private schools reserve a certain percentage of seats for children from economically weaker sections without charging any fees.

Some private school associations file a petition claiming that this law infringes on their rights under Article 19(1)(g) (Right to practice any profession, or to carry on any occupation, trade, or business). However, under Article 31C, this law is protected because it is aimed at fulfilling the Directive Principles related to education. The court dismisses the petition, emphasizing that the law is immune from being challenged on the grounds of violating fundamental rights under Articles 14 and 19, as it seeks to implement the state's policy towards securing the Directive Principles.

### **Article 31D: Saving of laws in respect of anti-national activities: Omitted.**

Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 2 (with effect from 13-4-1978).

### **Simplified act**

This part was removed by the Constitution (Forty-third Amendment) Act, 1977, section 2, and this change took effect on April 13, 1978.

## Explanation using Example

### Example 1:

Before the Constitution (Forty-third Amendment) Act, 1977, Article 31D provided protection to laws that were enacted to prevent anti-national activities. For instance, if the government passed a law to ban a political party that was involved in activities deemed harmful to the sovereignty and integrity of India, such a law would have been protected under Article 31D. This meant that the law could not be challenged in court on the grounds that it violated fundamental rights.

### Example 2:

Imagine a scenario in 1976 where the government enacted a law to restrict the publication of certain materials that were considered to incite violence against the state. Under Article 31D, this law would have been protected, meaning individuals or organizations affected by this restriction could not claim that their fundamental rights to freedom of speech and expression were being violated. However, after the omission of Article 31D in 1978, such laws would no longer have this special protection and could be challenged in court for violating fundamental rights.

## **PART III: FUNDAMENTAL RIGHTS**

### **RIGHT TO CONSTITUTIONAL REMEDIES**

#### **Article 32: Remedies for enforcement of rights conferred by this Part.**

##### Article - Enforcement of Rights

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

### **Simplified act**

#### Article - Enforcement of Rights

(1) You have the right to go to the Supreme Court if you believe your rights, as mentioned in this part of the Constitution, are being violated.

(2) The Supreme Court has the authority to give orders or directions, including special orders like habeas corpus (to bring a person before the court), mandamus (to command a public official to do their duty), prohibition (to stop a lower court from doing something), quo warranto (to challenge someone's right to hold a public office), and certiorari (to review a lower court's decision), to protect your rights.

(3) Besides the Supreme Court, Parliament can also allow other courts to use the same powers within their local areas to protect your rights.

(4) The right to go to the Supreme Court for protecting your rights cannot be taken away, except in situations mentioned in the Constitution.

#### Explanation using Example

##### Example 1:

##### Scenario: Violation of Freedom of Speech

Situation: Raj, a journalist, publishes an article criticizing the government. The government, in response, shuts down the newspaper and arrests Raj under a law that restricts freedom of speech.

##### Application of Article 32:

Right to Move Supreme Court: Raj can directly approach the Supreme Court under Article 32, claiming that his fundamental right to freedom of speech and expression (Article 19) has been violated.

Issuance of Writs: The Supreme Court can issue a writ of habeas corpus to release Raj from unlawful detention and a writ of mandamus directing the government to lift the ban on the newspaper.



**Empowerment of Other Courts:** If Parliament has empowered the High Court with similar powers, Raj could also approach the High Court for immediate relief.

**Non-Suspension of Rights:** Raj's right to approach the Supreme Court cannot be suspended unless explicitly provided by the Constitution, ensuring his access to justice.

Example 2:

Scenario: Unlawful Detention

**Situation:** Priya, a social activist, is detained by the police without any formal charges or a court order. Her family is not informed about her whereabouts.

**Application of Article 32:**

**Right to Move Supreme Court:** Priya's family can file a petition in the Supreme Court under Article 32, asserting that her fundamental right to personal liberty (Article 21) has been infringed.

**Issuance of Writs:** The Supreme Court can issue a writ of habeas corpus, compelling the police to produce Priya before the court and justify her detention.

**Empowerment of Other Courts:** If the High Court is empowered by Parliament, Priya's family can also seek similar relief from the High Court.

**Non-Suspension of Rights:** The right to approach the Supreme Court for enforcement of fundamental rights remains intact, ensuring Priya's family can seek immediate judicial intervention.

Example 3:

Scenario: Discrimination in Employment

**Situation:** Anjali, a qualified candidate, is denied a government job solely based on her caste, despite having all the necessary qualifications.

**Application of Article 32:**

**Right to Move Supreme Court:** Anjali can file a petition in the Supreme Court under Article 32, arguing that her right to equality (Article 14) and protection against discrimination (Article 15) have been violated.

**Issuance of Writs:** The Supreme Court can issue a writ of mandamus, directing the government to reconsider Anjali's application without discrimination.

**Empowerment of Other Courts:** If empowered by Parliament, Anjali can also approach the High Court for similar relief.

**Non-Suspension of Rights:** Anjali's right to seek enforcement of her fundamental rights through the Supreme Court cannot be suspended, ensuring her access to justice.

#### Example 4:

**Scenario:** Unfair Trial

**Situation:** Ravi is convicted in a criminal case without being given a fair opportunity to present his defense, violating his right to a fair trial.

**Application of Article 32:**

**Right to Move Supreme Court:** Ravi can approach the Supreme Court under Article 32, claiming that his right to a fair trial (Article 21) has been violated.

**Issuance of Writs:** The Supreme Court can issue a writ of certiorari, quashing the unfair trial proceedings and ordering a retrial.

**Empowerment of Other Courts:** If the High Court is empowered by Parliament, Ravi can also seek similar relief from the High Court.

**Non-Suspension of Rights:** Ravi's right to approach the Supreme Court for enforcement of his fundamental rights remains intact, ensuring his access to justice.

#### Example 5:

**Scenario:** Arbitrary Government Action

**Situation:** The government arbitrarily demolishes a community center in a minority neighborhood without following due process, violating the residents' right to property and equality.

**Application of Article 32:**

**Right to Move Supreme Court:** The affected residents can file a petition in the Supreme Court under Article 32, asserting that their fundamental rights to

equality (Article 14) and protection of property (Article 300A) have been violated.

**Issuance of Writs:** The Supreme Court can issue a writ of prohibition, stopping further demolition, and a writ of mandamus, directing the government to follow due process.

**Empowerment of Other Courts:** If empowered by Parliament, the residents can also approach the High Court for similar relief.

**Non-Suspension of Rights:** The residents' right to seek enforcement of their fundamental rights through the Supreme Court cannot be suspended, ensuring their access to justice.

**Article 32A: Constitutional validity of State laws not to be considered in proceedings under article 32: Omitted.**

32. - Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 3 (with effect from 13-4-1978).

### **Simplified act**

32. - This section was removed by the Constitution (Forty-third Amendment) Act, 1977, section 3 (effective from April 13, 1978).

Explanation using Example

Example 1:

Ravi, a resident of Maharashtra, believes that a new state law passed by the Maharashtra government violates his fundamental rights under the Constitution of India. He decides to file a petition directly in the Supreme Court under Article 32, seeking enforcement of his fundamental rights. However, due to the omission of Article 32A by the Forty-third Amendment, the Supreme Court will not consider the constitutional validity of the Maharashtra state law in these proceedings. Instead, Ravi would need to challenge the state law's validity through other legal avenues, such as filing a writ petition in the High Court under Article 226.

Example 2:

Priya, a student in Tamil Nadu, feels that a recent state law regarding educational quotas is discriminatory and infringes on her fundamental rights. She approaches the Supreme Court under Article 32 to seek redress. Because

Article 32A has been omitted, the Supreme Court will focus on whether Priya's fundamental rights have been violated but will not assess the constitutional validity of the state law itself in this specific proceeding. Priya may need to initiate a separate legal challenge in the High Court to question the validity of the state law.

**Article 33: Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.**

Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to:

- (a) the members of the Armed Forces; or
- (b) the members of the Forces charged with the maintenance of public order; or
- (c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or
- (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

**Simplified act**

Parliament can make laws to decide how much the rights given in this Part apply to:

- (a) members of the Armed Forces; or
- (b) members of the Forces responsible for keeping public order; or
- (c) people working in any government agency for intelligence or counter-intelligence purposes; or
- (d) people working in or with the communication systems set up for any Force or agency mentioned in (a) to (c),

and can limit or take away these rights to make sure they do their jobs properly and maintain discipline.

Explanation using Example

#### Example 1:

Scenario: A soldier in the Indian Army, Rajesh, posts a video on social media criticizing the government's defense policies.

Application of Article 33: Under Article 33, Parliament has the power to restrict certain fundamental rights for members of the Armed Forces to ensure discipline and proper discharge of duties. In this case, Rajesh's right to freedom of speech and expression (Article 19) can be legally restricted. The Army Act, 1950, which is a law made by Parliament, prohibits such actions by soldiers to maintain discipline and order within the armed forces. Therefore, Rajesh could face disciplinary action for his post.

#### Example 2:

Scenario: Priya, an officer in the Intelligence Bureau, is found sharing classified information with a journalist.

Application of Article 33: Article 33 allows Parliament to restrict the fundamental rights of persons employed in intelligence organizations to ensure the proper discharge of their duties. The Official Secrets Act, 1923, restricts the right to freedom of speech and expression (Article 19) for intelligence officers like Priya. Sharing classified information is a violation of this act, and Priya could be prosecuted and face severe penalties, including imprisonment, for her actions.

#### Example 3:

Scenario: A police officer, Anil, participates in a public protest against government policies during his off-duty hours.

Application of Article 33: Article 33 permits Parliament to restrict the rights of members of forces charged with maintaining public order, such as the police. The Police Forces (Restriction of Rights) Act, 1966, restricts the right to assemble peacefully and form associations (Article 19) for police officers to ensure discipline and prevent conflicts of interest. Anil's participation in the protest could be deemed a violation of this act, and he could face disciplinary measures, including suspension or dismissal from service.

#### Example 4:

Scenario: Sunita, an employee in the telecommunication department of the Border Security Force (BSF), leaks sensitive communication data to unauthorized persons.

Application of Article 33: Article 33 allows Parliament to restrict the rights of persons employed in telecommunication systems set up for forces like the BSF. The Telegraph Act, 1885, and other relevant laws restrict the right to privacy (Article 21) and freedom of speech and expression (Article 19) for such employees to protect national security. Sunita's actions would be a breach of these laws, and she could face legal action, including termination of employment and criminal charges.

**Article 34: Restriction on rights conferred by this Part while martial law is in force in any area.**

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

**Simplified act**

Even though the previous rules in this section say otherwise, Parliament can make a law to protect any person working for the central or state government, or any other person, from legal consequences for actions they took to maintain or restore order in any part of India where martial law was in effect. Parliament can also make a law to confirm any sentences given, punishments carried out, property taken away, or other actions done under martial law in that area.

Explanation using Example

Example 1:

During a period of civil unrest in a particular state, the government declares martial law to restore order. Under martial law, a military officer orders the arrest of several individuals suspected of inciting violence. After the situation stabilizes and martial law is lifted, some of those arrested claim their fundamental rights were violated and seek legal action against the officer. However, under Article 34 of the Constitution of India, Parliament passes a law indemnifying the officer for actions taken to maintain order during martial law.

This means the officer cannot be held legally responsible for those arrests, as they were done in connection with restoring order.

Example 2:

In a border area experiencing severe conflict, the government imposes martial law to control the situation. During this period, a curfew is enforced, and several people are detained for violating the curfew. One individual is sentenced to a short-term imprisonment by a military tribunal for repeatedly breaking the curfew. After martial law is lifted, the individual challenges the sentence, claiming it was unjust. However, Article 34 allows Parliament to validate the sentence passed under martial law, meaning the sentence remains legally binding and cannot be overturned simply because martial law has ended.

### **Article 35: Legislation to give effect to the provisions of this Part.**

Notwithstanding anything in this Constitution, -

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws -

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part, and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation. - In this article, the expression "law in force" has the same meaning as in article 372.

### **Simplified act**

No matter what is written in this Constitution, -

(a) Only Parliament can make laws, and the State Legislature cannot make laws -

(i) about the matters mentioned in clause (3) of article 16, clause (3) of article 32, article 33, and article 34, which Parliament is allowed to make laws about; and

(ii) to set punishments for actions that are considered crimes under this Part. Parliament must make these laws as soon as possible after this Constitution starts.

(b) Any law that was already in place before this Constitution started, in the territory of India, about the matters mentioned in sub-clause (i) of clause (a) or setting punishments for actions mentioned in sub-clause (ii) of that clause, will continue to be in effect. This will be the case unless Parliament changes, repeals, or amends these laws, and subject to any changes made under article 372.

Explanation. - In this article, "law in force" means the same as it does in article 372.

Explanation using Example

Example 1:

Scenario: The Indian Parliament decides to create a new law regarding the conduct of members of the armed forces.

Application of Article 35:

Clause (a)(i): Parliament has the exclusive power to make laws concerning the conduct of armed forces personnel, as mentioned in Article 33. The state legislatures do not have this power.

Clause (a)(ii): Parliament also has the authority to prescribe punishments for any offenses committed by armed forces personnel under this new law.

Outcome: The new law is valid and enforceable because it falls within the exclusive legislative domain of Parliament as per Article 35.

Example 2:



Scenario: A state government attempts to pass a law that prescribes punishment for acts of sedition.

Application of Article 35:

Clause (a)(i): The state legislature does not have the power to make laws regarding sedition, as this is a matter that Parliament can legislate on under Article 32(3).

Clause (a)(ii): Only Parliament can prescribe punishments for acts of sedition, as it is an offense under Part III of the Constitution.

Outcome: The state law is invalid because it encroaches upon the exclusive legislative domain of Parliament as per Article 35.

Example 3:

Scenario: A law regarding the protection of fundamental rights was in force before the commencement of the Constitution of India.

Application of Article 35:

Clause (b): This pre-existing law will continue to be in force even after the commencement of the Constitution, subject to any adaptations or modifications made under Article 372.

Clause (b): The law will remain effective until Parliament decides to alter, repeal, or amend it.

Outcome: The pre-existing law remains valid and enforceable until Parliament takes action to change it.

#### **PART IV: DIRECTIVE PRINCIPLES OF STATE POLICY**

##### **Article 36: Definition.**

In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

##### **Simplified act**

In this section, unless it clearly means something different, "the State" means the same thing as it does in Part III.

Explanation using Example

#### Example 1:

Scenario: A citizen files a petition in the Supreme Court of India, claiming that a new law passed by the state government violates their fundamental rights.

Application of Article 36: In this case, "the State" refers to the state government that passed the law. The Supreme Court will interpret "the State" as defined in Part III of the Constitution, which includes the government and Parliament of India, the government and legislature of each of the states, and all local or other authorities within the territory of India or under the control of the Government of India.

#### Example 2:

Scenario: A public interest litigation (PIL) is filed against a municipal corporation for failing to provide adequate sanitation facilities, arguing that it violates the Directive Principles of State Policy.

Application of Article 36: Here, "the State" includes the municipal corporation, as it is considered a local authority under the definition provided in Part III of the Constitution. The court will use this definition to determine the responsibilities and obligations of the municipal corporation in relation to the Directive Principles of State Policy.

#### **Article 37: Application of the principles contained in this Part.**

- The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

#### **Simplified act**

The rules in this section cannot be enforced by any court. However, these rules are very important for running the country. It is the responsibility of the government to use these rules when creating new laws.

#### Explanation using Example

#### Example 1:

The Directive Principles of State Policy include provisions for securing a living wage for workers. Suppose a group of factory workers in Maharashtra is demanding better wages and working conditions. They cannot directly

approach the court to enforce these demands based on the Directive Principles. However, they can lobby their state government to pass laws that improve their wages and working conditions, as it is the duty of the state to apply these principles in making laws.

Example 2:

The Directive Principles also emphasize the importance of providing free and compulsory education for children. Imagine a scenario where a community in a rural area of Uttar Pradesh lacks adequate educational facilities. The residents cannot file a lawsuit to compel the government to build schools based on the Directive Principles. Instead, they can petition their local government representatives to allocate funds and resources for building schools, as the state has a duty to apply these principles in its governance and law-making processes.

**Article 38: State to secure a social order for the promotion of welfare of the people.**

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

**Simplified act**

(1) The government will work hard to improve the well-being of all people by creating and maintaining a society where fairness and justice in social, economic, and political matters are present in all parts of national life.

(2) The government will especially try to reduce the differences in income and work to remove inequalities in status, access to services, and opportunities. This effort will not only focus on individuals but also on different groups of people living in various areas or working in different jobs.

Explanation using Example

Example 1:

The government of India decides to implement a new policy aimed at providing free healthcare services to all citizens, regardless of their income level. This policy includes the establishment of government-funded hospitals in rural areas where healthcare facilities are scarce. By doing so, the State is striving to promote the welfare of the people by ensuring that everyone has access to essential healthcare services, thereby minimizing inequalities in facilities and opportunities.

Example 2:

The State introduces a new education program that provides free primary and secondary education to children from economically weaker sections of society. Additionally, scholarships are offered to students from underprivileged backgrounds to pursue higher education. This initiative aims to eliminate inequalities in status and opportunities by ensuring that children from all economic backgrounds have access to quality education, which is essential for their social and economic development.

Example 3:

The government launches a rural employment scheme that guarantees 100 days of paid work per year to every household in rural areas. This scheme is designed to provide economic justice by offering employment opportunities to those who are unemployed or underemployed, thereby reducing income inequalities and promoting economic welfare.

Example 4:

The State enacts a law that mandates equal pay for equal work, regardless of gender. This law is enforced across all sectors, ensuring that women receive the same wages as men for performing the same job. By doing so, the State is striving to eliminate inequalities in income and status, promoting social justice and gender equality in the workplace.

Example 5:

The government implements a reservation policy in educational institutions and public sector jobs for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC). This policy aims to provide opportunities to historically disadvantaged groups, thereby reducing social and economic inequalities and promoting a more inclusive social order.

**Article 39: Certain principles of policy to be followed by the State.**

The State shall, in particular, direct its policy towards securing:

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

### **Simplified act**

The State will focus on ensuring:

- (a) that all citizens, both men and women, have the right to earn a decent living;
- (b) that the resources of the community are shared in a way that benefits everyone;
- (c) that the economic system does not lead to a few people getting very rich while others suffer;
- (d) that men and women get paid the same amount for doing the same work;
- (e) that the health and strength of workers, both men and women, and the well-being of children are protected, and that people are not forced to take jobs that are not suitable for their age or strength due to financial pressure;
- (f) that children have the chance to grow up healthy and free, with dignity, and are protected from being exploited or neglected.

Explanation using Example

### Example 1:

#### Scenario: Equal Pay for Equal Work

Situation: Priya and Rajesh work as software engineers at a government-owned IT company. Both have the same qualifications, experience, and job responsibilities. However, Priya discovers that Rajesh is being paid more than her for the same work.

Application of Article 39(d): Priya can raise a complaint under the principle of "equal pay for equal work" as mandated by Article 39(d) of the Constitution of India. The company is legally obligated to ensure that both men and women receive equal pay for the same work. The State can intervene to rectify this disparity and ensure compliance with the directive principles.

### Example 2:

#### Scenario: Protection of Children from Exploitation

Situation: A factory in a rural area employs children under the age of 14 to work in hazardous conditions. These children are forced to work long hours and are paid very little, which affects their health and education.

Application of Article 39(f): The State, under Article 39(f), is responsible for ensuring that children are given opportunities to develop in a healthy manner and are protected against exploitation. The factory can be reported to the authorities, and the State can take action to shut down the illegal employment of children, provide them with educational opportunities, and ensure their well-being.

### Example 3:

#### Scenario: Distribution of Material Resources

Situation: A large corporation is attempting to acquire vast tracts of agricultural land in a village to set up a manufacturing plant. This acquisition would displace many farmers and disrupt the local community's livelihood.

Application of Article 39(b): The State can intervene to ensure that the ownership and control of material resources, such as land, are distributed in a manner that serves the common good. The State may impose regulations or provide alternative solutions to ensure that the farmers' livelihoods are protected and that the community benefits from the development.

#### Example 4:

##### Scenario: Prevention of Wealth Concentration

Situation: A single business tycoon owns multiple industries in a city, leading to a monopoly that stifles competition and results in the concentration of wealth.

Application of Article 39(c): The State can enact policies and regulations to prevent the concentration of wealth and means of production. This could include antitrust laws, promoting small and medium enterprises, and ensuring fair competition in the market to prevent economic systems from resulting in common detriment.

#### Example 5:

##### Scenario: Adequate Means of Livelihood

Situation: A rural community is struggling with unemployment and lack of access to basic resources. The local government decides to implement a skill development program and provide financial assistance to start small businesses.

Application of Article 39(a): The State's policy to secure the right to an adequate means of livelihood for all citizens is reflected in this initiative. By providing skill development and financial assistance, the State is helping the community members, both men and women, to achieve economic independence and improve their standard of living.

#### **Article 39A: Equal justice and free legal aid.**

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

#### **Simplified act**

The State will make sure that the legal system works in a way that promotes justice and gives everyone an equal chance.

The State will provide free legal help through laws, programs, or other methods.

This is to make sure that no citizen is denied the chance to get justice because they don't have enough money or have other difficulties.

Explanation using Example

Example 1:

Ravi, a daily wage laborer, was wrongfully accused of theft in his village. Due to his financial condition, he could not afford a lawyer to defend himself in court. Under Article 39A of the Constitution of India, the state provided Ravi with free legal aid through a government-appointed lawyer. This ensured that Ravi had an equal opportunity to present his case and seek justice, despite his economic disadvantage.

Example 2:

Meena, a single mother working as a domestic helper, faced eviction from her rented home due to a dispute with her landlord. She did not have the financial means to hire a lawyer to fight her case. Through a legal aid scheme established under Article 39A, Meena received free legal assistance from a legal aid clinic. This support enabled her to challenge the eviction notice in court and secure her right to stay in her home, ensuring that her economic status did not prevent her from accessing justice.

#### **Article 40: Organisation of village panchayats.**

- The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

#### **Simplified act**

The State will work to set up village councils and give them the necessary powers and authority so they can operate as self-governing bodies.

Explanation using Example

Example 1:

In a rural village in Maharashtra, the state government decides to implement Article 40 by establishing a village panchayat. The government conducts local elections, allowing villagers to elect their representatives. Once elected, the village panchayat is given the authority to manage local resources, such as water supply and sanitation. They are also empowered to make decisions on



local infrastructure projects, like building roads and schools. This enables the village to function independently and address its unique needs without waiting for state-level intervention.

Example 2:

In a small village in Tamil Nadu, the state government, following Article 40, organizes a village panchayat and grants it the power to manage agricultural activities. The panchayat is given the authority to distribute government subsidies to farmers, oversee the implementation of irrigation projects, and ensure fair pricing for crops. By doing so, the village panchayat helps improve agricultural productivity and the economic well-being of the villagers, demonstrating self-governance and reducing dependency on higher government authorities.

**Article 41: Right to work, to education and to public assistance in certain cases.**

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**Simplified act**

The government will do its best, based on its resources and development, to ensure that people have the right to:

Work

Education

Help when they are unemployed, old, sick, or disabled, and in other situations where they need support.

Explanation using Example

Example 1:

Ravi, a 45-year-old factory worker, loses his job due to the factory shutting down. He struggles to find new employment and is unable to support his family. Under Article 41 of the Constitution of India, the state government, recognizing its duty within its economic capacity, provides Ravi with unemployment benefits and access to job training programs. This assistance

helps Ravi acquire new skills and eventually secure a new job, ensuring his right to work and public assistance in times of unemployment.

Example 2:

Meena, a 70-year-old widow with no family support, finds it difficult to manage her daily expenses and healthcare needs. She applies for old age pension and healthcare benefits provided by the state government. In accordance with Article 41, the state, within its economic capacity, grants her a monthly pension and subsidized healthcare services. This support ensures that Meena can live with dignity and receive necessary medical care, fulfilling her right to public assistance in old age.

**Article 42: Provision for just and humane conditions of work and maternity relief.**

The State shall make provision for securing just and humane conditions of work and for maternity relief.

**Simplified act**

The government will ensure that working conditions are fair and humane, and that there is support for maternity leave.

Explanation using Example

Example 1:

Priya works in a garment factory in Mumbai. She is pregnant and is concerned about her working conditions and maternity leave. According to Article 42 of the Constitution of India, the state is responsible for ensuring that Priya has just and humane working conditions. This means that her employer must provide a safe and healthy work environment, reasonable working hours, and adequate rest breaks. Additionally, Priya is entitled to maternity relief, which includes paid maternity leave, medical benefits, and job security during her pregnancy and after childbirth.

Example 2:

Ravi is employed as a construction worker in Delhi. His job involves heavy physical labor, and he often works long hours in harsh conditions. Under Article 42, the state must ensure that Ravi's working conditions are just and humane. This could involve implementing regulations that limit the number of hours Ravi can work, ensuring he has access to clean drinking water and

sanitation facilities, and providing protective gear to safeguard his health. If Ravi's wife is expecting a child, she would also be entitled to maternity relief, ensuring she receives the necessary support and benefits during her pregnancy.

### **Article 43: Living wage, etc., for workers.**

The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

43A.

### **Simplified act**

The government will try to make sure that all workers, whether they work in farming, factories, or any other job, have:

Jobs to do.

A fair wage that allows them to live comfortably.

Good working conditions that ensure a decent quality of life.

Enough free time to enjoy life and participate in social and cultural activities.

Additionally, the government will try to support small-scale industries in rural areas, either run by individuals or cooperatives.

43A.

Explanation using Example

Example 1:

Ramesh is a factory worker in a small town in India. He works long hours but struggles to make ends meet because his wages are very low. According to Article 43 of the Constitution of India, the state government decides to implement a new law that mandates a minimum living wage for all industrial workers. This law ensures that Ramesh and his colleagues receive a salary that is sufficient to cover basic living expenses, such as food, housing, and healthcare. Additionally, the law includes provisions for safe working

conditions and reasonable working hours, allowing Ramesh to have time for leisure and social activities.

Example 2:

Sita is a farmer in a rural village in India. She and other villagers rely on agriculture for their livelihood, but they often face financial difficulties due to fluctuating crop prices and lack of access to markets. To address this, the state government, guided by Article 43, promotes the establishment of cooperative cottage industries in the village. These industries allow Sita and other villagers to produce and sell handmade goods, such as textiles and crafts, providing them with an additional source of income. The government also provides training and resources to help them improve their skills and market their products effectively. This initiative not only improves their economic situation but also enhances their quality of life by providing opportunities for social and cultural engagement.

#### **Article 43A: Participation of workers in management of Industries.**

43B. - The State shall take steps

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

#### **Simplified act**

43B. - The State shall take steps

The State will take action, through laws or other means, to ensure that workers can take part in managing businesses, companies, or other organizations involved in any industry.

Explanation using Example

Example 1:

A large textile factory in Mumbai employs over 500 workers. The management decides to implement a new production process that will significantly change the workflow. In accordance with Article 43A, the State government passes legislation requiring the factory to form a Workers' Participation Committee. This committee includes representatives from both the management and the workers. The committee meets regularly to discuss the new production process, address workers' concerns, and ensure that the changes are implemented

smoothly. This collaborative approach helps in reducing resistance from workers and improves overall productivity.

Example 2:

A software development company in Bengaluru is planning to expand its operations and open a new branch. The company employs around 200 software engineers and support staff. To comply with Article 43A, the State government encourages the company to involve its employees in the decision-making process. The company sets up a joint management-worker council where employees can voice their opinions and suggestions regarding the new branch. This council discusses various aspects such as location, infrastructure, and work environment. By involving workers in these decisions, the company fosters a sense of ownership and responsibility among its employees, leading to a more motivated and committed workforce.

### **Article 43B: Promotion of co-operative societies.**

The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

### **Simplified act**

The State will try to encourage the creation of co-operative societies that are formed voluntarily, operate independently, are controlled democratically, and are managed professionally.

Explanation using Example

Example 1:

A group of farmers in a rural village in Maharashtra decides to form a co-operative society to collectively purchase seeds, fertilizers, and other agricultural inputs at a lower cost. The state government, in line with Article 43B, provides them with guidance on how to register their co-operative society, ensures that the society operates autonomously without undue interference, and offers training programs to help them manage the society professionally. The farmers are also encouraged to hold regular elections to ensure democratic control over the society's operations.

Example 2:

In a small town in Kerala, a group of women artisans comes together to form a co-operative society to market their handmade products more effectively. The state government supports their initiative by providing initial funding and resources for setting up the co-operative. The government also organizes workshops on professional management practices and ensures that the co-operative operates independently. The women artisans elect a board of directors from among themselves to oversee the co-operative's activities, ensuring that all members have a say in the decision-making process.

#### **Article 44: Uniform civil code for the citizens.**

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

#### **Simplified act**

The government will try to make sure that all citizens in India follow the same set of civil laws.

Explanation using Example

Example 1:

Ravi and Priya, who belong to different religious communities, decide to get married. Under the current personal laws, they would have to choose between the Hindu Marriage Act, the Muslim Personal Law, or the Special Marriage Act, depending on their religious affiliations. However, if a Uniform Civil Code (UCC) were in place, they would follow a single set of laws applicable to all citizens, regardless of their religion. This would simplify the legal process and ensure that both parties are treated equally under the same legal framework.

Example 2:

Ayesha, a Muslim woman, wants to file for divorce from her husband. Under the current personal laws, she would have to follow the Muslim Personal Law, which has different provisions for divorce compared to other religions. If a Uniform Civil Code were implemented, Ayesha would follow the same divorce procedures as any other citizen, ensuring that her rights and obligations are consistent with those of women from other religious backgrounds. This would promote gender equality and reduce the complexity of navigating different personal laws.

**Article 45: Provision for early childhood care and education to children below the age of six years.**

- The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

**Simplified act**

The government will try to make sure that all children receive care and education until they turn six years old.

Explanation using Example

Example 1:

The government of Maharashtra launches a new program called "Bal Vikas Yojana" aimed at providing free pre-school education and nutritional support to children under the age of six. Under this program, Anganwadi centers are set up in rural and urban areas to ensure that children receive early childhood education and care. The program also includes training for Anganwadi workers to improve the quality of education and care provided.

Example 2:

In a small village in Kerala, the local Panchayat collaborates with an NGO to establish a community-based early childhood care center. This center offers a safe and nurturing environment for children below six years of age, where they can engage in play-based learning activities. The center also provides regular health check-ups and nutritional meals to ensure the overall well-being of the children. The initiative is supported by state funds and aims to prepare children for formal schooling.

**Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.**

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Simplified act**

The government will make extra efforts to improve the education and economic conditions of the less privileged groups, especially the Scheduled Castes and

Scheduled Tribes. The government will also protect them from unfair treatment and any kind of exploitation.

Explanation using Example

Example 1:

Ravi, a young boy from a Scheduled Tribe in a remote village, dreams of becoming an engineer. However, his family cannot afford the tuition fees for higher education. Under Article 46, the State government provides scholarships and financial aid specifically for students from Scheduled Castes and Scheduled Tribes. Ravi applies for and receives a scholarship, which covers his tuition fees and provides a stipend for his living expenses. This enables him to pursue his engineering degree without financial burden.

Example 2:

Meena, a woman from a Scheduled Caste, faces discrimination and is paid less than her colleagues for the same work in a factory. She reports this to the local authorities. Under Article 46, the State is obligated to protect her from social injustice and exploitation. The authorities investigate the matter and ensure that Meena receives equal pay and that the factory implements policies to prevent discrimination against employees from weaker sections, including Scheduled Castes and Scheduled Tribes.

**Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.**

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

**Simplified act**

The government considers it very important to improve the nutrition, living standards, and public health of its people.

Specifically, the government will work to ban the use of alcoholic drinks and harmful drugs, except when they are used for medical reasons.

Explanation using Example



#### Example 1:

The government of India launches a nationwide campaign to promote healthy eating habits among its citizens. This includes educational programs in schools about the importance of a balanced diet, subsidies for fruits and vegetables to make them more affordable, and public service announcements on television and radio about the dangers of junk food. Additionally, the government imposes higher taxes on sugary drinks and fast food to discourage their consumption. These actions are in line with Article 47, which mandates the State to raise the level of nutrition and improve public health.

#### Example 2:

In an effort to improve public health, the State of Maharashtra implements a policy to provide free healthcare check-ups and vaccinations in rural areas. Mobile health clinics are set up to reach remote villages, and healthcare workers are trained to educate the local population about hygiene and preventive healthcare measures. The State also enforces strict regulations on the sale of alcohol and bans the sale of certain harmful drugs, except for medicinal purposes. These measures reflect the State's duty under Article 47 to improve public health and prohibit the consumption of intoxicating substances that are injurious to health.

#### **Article 48: Organisation of agriculture and animal husbandry.**

The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for:

Preserving and improving the breeds

Prohibiting the slaughter of cows and calves and other milch and draught cattle

#### **Simplified act**

The State will try to improve farming and raising animals using modern and scientific methods. Specifically, the State will:

Work on preserving and improving the breeds of animals

Ban the killing of cows, calves, and other milk-producing and working cattle

Explanation using Example

Example 1:

The government of a state in India launches a new agricultural initiative aimed at increasing crop yields. This initiative includes providing farmers with access to modern farming equipment, high-quality seeds, and training on scientific farming techniques. Additionally, the state sets up veterinary clinics in rural areas to ensure that livestock receive proper medical care, thereby improving the breeds of cattle and other farm animals.

Example 2:

A state government enacts a law that prohibits the slaughter of cows, calves, and other milch and draught cattle. To enforce this law, the state sets up checkpoints at major transportation routes to prevent the illegal transport of these animals for slaughter. The government also provides subsidies to farmers who rear indigenous breeds of cattle, encouraging the preservation and improvement of these breeds. Furthermore, the state promotes the use of cow dung and urine in organic farming, thereby integrating animal husbandry with sustainable agricultural practices.

**Article 48A: Protection and improvement of environment and safeguarding of forests and wild life.**

Article - Environmental Protection

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

**Simplified act**

Article - Environmental Protection

The government will try to protect and improve the environment and take care of the forests and wild animals in the country.

Explanation using Example

Example 1:

The government of a state in India decides to implement a new policy aimed at reducing air pollution in major cities. This policy includes measures such as promoting the use of electric vehicles, increasing green cover by planting more trees, and imposing stricter regulations on industrial emissions. These actions

are in line with Article 48A of the Constitution of India, which mandates the state to protect and improve the environment.

Example 2:

A state government launches a campaign to protect endangered species in its forests. This includes setting up wildlife sanctuaries, banning poaching, and conducting awareness programs for local communities about the importance of wildlife conservation. These initiatives are supported by Article 48A, which requires the state to safeguard forests and wildlife.

**Article 49: Protection of monuments and places and objects of national importance.**

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

**Simplified act**

The State must protect every monument, place, or object that has artistic or historic value and is declared by Parliament to be of national importance.

The protection includes preventing damage, defacement, destruction, removal, selling, or exporting of these important sites and objects.

Explanation using Example

Example 1:

The government of India has declared the Taj Mahal as a monument of national importance. A private company proposes to build a large commercial complex nearby, which could potentially obstruct the view and cause environmental damage to the monument. Under Article 49, the State has the obligation to intervene and prevent the construction of the complex to protect the Taj Mahal from disfigurement and environmental harm.

Example 2:

An ancient temple in Tamil Nadu, known for its historic and artistic significance, is at risk of being damaged due to unauthorized mining activities in the vicinity. The local community reports the issue to the authorities. In accordance with Article 49, the State must take immediate action to halt the

mining activities and ensure the protection of the temple from destruction and spoliation.

### **Article 50: Separation of judiciary from executive.**

The State shall take steps to separate the judiciary from the executive in the public services of the State.

#### **Simplified act**

The government will work to make sure that judges and courts are independent and not influenced by government officials in the state's public services.

Explanation using Example

Example 1:

In a small town in India, the local District Magistrate (DM) is responsible for both administrative functions and judicial functions. For instance, the DM might be involved in issuing licenses, maintaining law and order, and also presiding over certain judicial matters like resolving minor disputes or conducting trials for petty offenses.

However, under Article 50 of the Constitution of India, the state government decides to implement reforms to separate these functions. As a result, a new system is introduced where the DM's judicial responsibilities are transferred to a newly appointed judicial magistrate. This judicial magistrate will now exclusively handle all judicial matters, ensuring that the DM focuses solely on administrative duties. This separation helps in reducing conflicts of interest and ensures that judicial decisions are made independently of executive influence.

Example 2:

In a metropolitan city, the police department is often involved in both investigating crimes and prosecuting offenders in court. This dual role can sometimes lead to biases, as the same department that investigates a crime also has a stake in the outcome of the prosecution.

To comply with Article 50, the state government establishes a separate prosecution department. Now, after the police complete their investigation, the case is handed over to the prosecution department, which is entirely independent of the police. This department is responsible for presenting the case in court. This separation ensures that the prosecution is conducted

impartially and that the judiciary can make decisions based on unbiased evidence and arguments, thereby upholding the principles of justice and fairness.

**Article 51: Promotion of international peace and security.**

The State shall endeavour to -

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
- (d) encourage settlement of international disputes by arbitration.

**Simplified act**

The State will try to -

- (a) support global peace and safety;
- (b) keep fair and respectful relationships between countries;
- (c) encourage respect for international laws and agreements when countries interact with each other; and
- (d) promote resolving international disagreements through arbitration (a method of settling disputes outside the courts).

Explanation using Example

Example 1:

India, as a member of the United Nations, participates in peacekeeping missions around the world. For instance, Indian troops have been deployed in countries like South Sudan and Lebanon to help maintain peace and security. This action aligns with Article 51(a) of the Constitution of India, which mandates the promotion of international peace and security.

Example 2:

India and Bangladesh have a history of border disputes. Instead of escalating tensions, both countries have engaged in diplomatic talks and signed treaties to resolve these issues amicably. This approach reflects Article 51(b) and (d) of

the Constitution of India, which emphasize maintaining just and honourable relations between nations and encouraging the settlement of international disputes by arbitration.

Example 3:

India has signed various international treaties, such as the Paris Agreement on climate change. By adhering to the commitments made under these treaties, India demonstrates its respect for international law and treaty obligations, as outlined in Article 51(c) of the Constitution of India.

#### **PART IVA: FUNDAMENTAL DUTIES**

##### **Article 51A: Fundamental duties.**

It shall be the duty of every citizen of India

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

### **Simplified act**

#### Responsibilities of Every Citizen of India

(a) Follow the Constitution and respect its values and institutions, the National Flag, and the National Anthem.

(b) Appreciate and follow the noble ideas that inspired our fight for freedom.

(c) Support and protect the sovereignty, unity, and integrity of India.

(d) Defend the country and serve when asked to do so.

(e) Promote harmony and a sense of brotherhood among all people of India, regardless of religion, language, or region; reject practices that disrespect women.

(f) Value and preserve the rich heritage of our diverse culture.

(g) Protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and show kindness to living creatures.

(h) Develop a scientific mindset, humanism, and a spirit of inquiry and reform.

(i) Protect public property and avoid violence.

(j) Strive for excellence in all areas of personal and collective activity so that the nation continually reaches higher levels of effort and achievement.

(k) If you are a parent or guardian, ensure your child or ward between the ages of six and fourteen gets an education.

#### Explanation using Example

##### Example 1:

Ravi, a software engineer from Bangalore, always stands up and sings the National Anthem with respect during public events. He also ensures that the National Flag is hoisted correctly on national holidays and follows the proper

protocol for its display and disposal. By doing this, Ravi is fulfilling his duty under Article 51A(a) to respect the National Flag and the National Anthem.

Example 2:

Meera, a school teacher in Delhi, teaches her students about the freedom fighters and the sacrifices they made for India's independence. She organizes activities and discussions around the ideals of non-violence and self-reliance that inspired the national struggle for freedom. Through her efforts, Meera is cherishing and following the noble ideals as per Article 51A(b).

Example 3:

Arjun, a businessman in Mumbai, actively participates in community programs that promote national unity and integrity. He organizes events that bring together people from different states and cultures to celebrate festivals and share their traditions. Arjun's actions are in line with Article 51A(c) to uphold and protect the sovereignty, unity, and integrity of India.

Example 4:

Priya, a college student in Chennai, volunteers with the National Cadet Corps (NCC) and is always ready to serve the nation in times of need, such as during natural disasters. By doing so, Priya is fulfilling her duty under Article 51A(d) to defend the country and render national service when called upon.

Example 5:

Ahmed, a social worker in Hyderabad, runs workshops to promote communal harmony and brotherhood among people of different religions and languages. He also campaigns against practices that degrade the dignity of women. Ahmed's efforts are in accordance with Article 51A(e) to promote harmony and renounce practices derogatory to the dignity of women.

Example 6:

Lakshmi, an artist in Kolkata, creates artwork that celebrates India's diverse cultural heritage. She also organizes exhibitions to educate people about the importance of preserving traditional art forms. Lakshmi's work aligns with Article 51A(f) to value and preserve the rich heritage of India's composite culture.

Example 7:



Rohan, an environmental activist in Kerala, leads initiatives to clean up local rivers and plant trees in deforested areas. He also educates the community about the importance of protecting wildlife and showing compassion for animals. Rohan's actions are in line with Article 51A(g) to protect and improve the natural environment.

Example 8:

Sita, a scientist in Pune, encourages her students to question established norms and think critically about scientific and social issues. She promotes a spirit of inquiry and humanism in her classroom. Sita's teaching methods reflect her commitment to Article 51A(h) to develop the scientific temper, humanism, and the spirit of inquiry and reform.

Example 9:

Vikram, a public servant in Jaipur, ensures that government property is well-maintained and not misused. He also educates the public about the importance of safeguarding public property and avoiding violence. Vikram's efforts are in accordance with Article 51A(i) to safeguard public property and abjure violence.

Example 10:

Anita, a corporate leader in Gurgaon, strives for excellence in her work and encourages her team to innovate and achieve high standards. She also supports initiatives that aim to improve the overall performance of the company and contribute to national development. Anita's dedication is in line with Article 51A(j) to strive towards excellence in all spheres of individual and collective activity.

Example 11:

Rajesh and Sunita, parents in Lucknow, ensure that their children attend school regularly and have access to quality education. They also support their children's extracurricular activities to foster their overall development. By doing this, Rajesh and Sunita are fulfilling their duty under Article 51A(k) to provide opportunities for education to their children between the ages of six and fourteen years.

## **PART V: THE UNION**

### **CHAPTER I: THE EXECUTIVE**

## **The President and Vice-President**

### **Article 52: The President of India.**

There shall be a President of India.

### **Article 53: Executive power of the Union.**

(1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall -

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

### **Simplified act**

(1) The President has the main executive power of the country. This means the President can make decisions and take actions either directly or through other officers who work under him, following the rules of the Constitution.

(2) In addition to the general powers mentioned above, the President is also the head of the country's Defence Forces. How the President uses this power is controlled by laws.

(3) This article does not:

(a) Give the President any duties that are already given to the State Governments or other authorities by existing laws; or

(b) Stop Parliament from giving duties to other authorities besides the President through new laws.

Explanation using Example

Example 1:

Scenario: Appointment of a Governor

Explanation: The President of India has the executive power to appoint the Governor of a state. This power is exercised directly by the President as per the Constitution.

Example: The President of India appoints Mr. Sharma as the Governor of Maharashtra. This decision is made by the President directly, showcasing the executive power vested in the President by Article 53.

Example 2:

Scenario: Military Command

Explanation: The President holds the supreme command of the Defence Forces of India. However, the actual exercise of this power is regulated by laws passed by Parliament.

Example: During a national security crisis, the President, as the supreme commander of the Defence Forces, authorizes a military operation. However, the operational details and execution are carried out by the Defence Ministry and military officers, following the regulations and laws established by Parliament.

Example 3:

Scenario: Delegation of Powers

Explanation: The President can exercise executive powers through subordinate officers. This means that various ministries and departments operate under the authority of the President.

Example: The Ministry of Home Affairs issues a directive to improve internal security measures. This directive is issued by the Home Minister, who is a subordinate officer exercising the executive power of the President.

Example 4:

Scenario: State Government Functions

Explanation: Article 53(3)(a) clarifies that the President does not take over functions assigned to state governments by existing laws.

Example: The state government of Karnataka is responsible for managing its police force as per state laws. The President does not interfere with this function, as it is conferred by existing state laws.

Example 5:

Scenario: Legislative Authority

Explanation: Article 53(3)(b) allows Parliament to assign functions to authorities other than the President.

Example: Parliament passes a law that grants the Election Commission of India the authority to conduct and oversee elections. This function is not directly handled by the President but is conferred by Parliament to the Election Commission.

### **Article 54: Election of President.**

The President

The President shall be elected by the members of an electoral college consisting of:

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States.

Explanation

In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union territory of Pondicherry.

### **Simplified act**

The President

The President will be chosen by a group of people called an electoral college. This group includes:

- (a) the elected members of both the House of the People (Lok Sabha) and the Council of States (Rajya Sabha); and
- (b) the elected members of the Legislative Assemblies of the States.

Explanation

In this article and in article 55, the term "State" also includes the National Capital Territory of Delhi and the Union Territory of Pondicherry.

Explanation using Example

Example 1:

Imagine that the term of the current President of India is coming to an end. To elect a new President, an electoral college is formed. This electoral college includes:

All the elected members of the Lok Sabha (House of the People) and the Rajya Sabha (Council of States).

All the elected members of the Legislative Assemblies of the States, including the National Capital Territory of Delhi and the Union Territory of Puducherry.

The members of this electoral college will cast their votes to elect the new President of India.

Example 2:

Suppose there is a vacancy in the office of the President due to resignation. The Chief Election Commissioner of India announces the schedule for the Presidential election. The electoral college, which includes:

Elected members of both Houses of Parliament (Lok Sabha and Rajya Sabha).

Elected members of the Legislative Assemblies of all States, including Delhi and Puducherry.

These members will participate in the voting process. Each member's vote has a certain value based on the population they represent. The candidate who secures the majority of votes is declared the new President of India.

### **Article 55: Manner of election of President.**

(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States inter se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:

(a) Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) If, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation: In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 1971 census.

### **Simplified act**

(1) As much as possible, there should be a consistent way of representing different States when electing the President.

(2) To make sure this consistency is achieved among the States and between the States and the Union, the number of votes each elected member of Parliament and each State's Legislative Assembly member can cast in the election will be decided as follows:

(a) Each elected member of a State's Legislative Assembly will have one vote for every thousand people in the State, based on the State's population divided by the number of elected Assembly members.

(b) If, after dividing the population by the number of Assembly members, there is a remainder of five hundred or more, each member will get one extra vote.

(c) Each elected member of either House of Parliament will have a number of votes calculated by dividing the total votes given to State Assembly members (from parts (a) and (b)) by the total number of elected members of both Houses of Parliament. If the result has a fraction more than half, it will be rounded up to the next whole number; otherwise, fractions will be ignored.

(3) The President will be elected using a system called proportional representation with a single transferable vote, and the voting will be done in secret.

Explanation: In this article, "population" refers to the population counted in the most recent census for which the data has been published:

Provided that until the data from the first census after 2026 is published, "population" will refer to the 1971 census data.

Explanation using Example

Example 1:

Scenario: Election of the President of India in 2022.

Details:

State: Uttar Pradesh

Population (as per 1971 census): 83,849,005

Number of elected members in the Legislative Assembly: 403

Calculation:

Votes per MLA:

Population / Number of elected members =  $83,849,005 / 403 \approx 208,000$

Votes per MLA = 208 (since there are 208 multiples of 1,000 in 208,000)

Adjustment for remainder:

Remainder =  $208,000 - (208 * 1,000) = 0$

Since the remainder is not greater than or equal to 500, no additional vote is added.

Result:

Each elected member of the Legislative Assembly of Uttar Pradesh has 208 votes in the Presidential election.

Example 2:

Scenario: Election of the President of India in 2022.

Details:

State: Kerala

Population (as per 1971 census): 21,347,375

Number of elected members in the Legislative Assembly: 140

Calculation:

Votes per MLA:

Population / Number of elected members =  $21,347,375 / 140 \approx 152,481$

Votes per MLA = 152 (since there are 152 multiples of 1,000 in 152,481)

Adjustment for remainder:

Remainder =  $152,481 - (152 * 1,000) = 481$

Since the remainder is less than 500, no additional vote is added.

Result:

Each elected member of the Legislative Assembly of Kerala has 152 votes in the Presidential election.

Example 3:

Scenario: Election of the President of India in 2022.

Details:

Total votes assigned to the members of the Legislative Assemblies of all States: 549,495

Total number of elected members of both Houses of Parliament: 776

Calculation:



Votes per MP:

Total votes assigned to State Legislative Assemblies / Total number of elected members of Parliament =  $549,495 / 776 \approx 708.2$

Since the fraction exceeds one-half, it is counted as one.

Result:

Each elected member of either House of Parliament has 708 votes in the Presidential election.

Example 4:

Scenario: Voting process in the Presidential election.

Details:

System: Proportional representation by means of the single transferable vote.

Voting method: Secret ballot.

Explanation:

Each voter (MLA or MP) ranks the candidates in order of preference.

If no candidate secures the required quota of votes in the first round, the candidate with the fewest votes is eliminated, and their votes are transferred to the remaining candidates based on the next preference indicated on each ballot.

This process continues until a candidate secures the required quota of votes to be elected as President.

Result:

The election ensures that the President is elected by a broad consensus, reflecting the proportional representation of different States and the Union.

### **Article 56: Term of office of President.**

Article - Term of Office of President

(1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that -

(a) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

### **Simplified act**

#### Article - Term of Office of President

(1) The President will serve a term of five years starting from the day they take office:

However -

(a) The President can resign by writing a letter to the Vice-President;

(b) The President can be removed from office if they break the Constitution, through a process called impeachment as described in article 61;

(c) Even if the President's term ends, they will stay in office until the next President takes over.

(2) If the President resigns by writing to the Vice-President as mentioned in (a), the Vice-President must immediately inform the Speaker of the House of the People.

#### Explanation using Example

Example 1:

Scenario: President Resigns Before Completing Term

Situation: President A has been in office for three years. Due to personal reasons, President A decides to resign from the position.

Action: President A writes a resignation letter addressed to the Vice-President, stating the intention to resign from the office of the President.

Outcome: The Vice-President receives the resignation letter and immediately communicates it to the Speaker of the House of the People. President A's resignation is effective, and the Vice-President assumes the role of Acting President until a new President is elected.

#### Example 2:

Scenario: President Continues in Office After Term Expiration

Situation: President B's five-year term is set to expire on January 1st. However, due to delays in the election process, a new President has not yet been elected.

Action: Despite the expiration of the five-year term, President B continues to hold office as per Article 56(1)(c) of the Constitution.

Outcome: President B remains in office and continues to perform presidential duties until the newly elected President takes the oath of office and officially assumes the position.

#### Example 3:

Scenario: President Impeached for Violating the Constitution

Situation: President C is accused of violating the Constitution by engaging in activities that are deemed unconstitutional.

Action: The Parliament initiates impeachment proceedings as outlined in Article 61 of the Constitution. After thorough investigation and debate, both Houses of Parliament pass the impeachment motion with the required majority.

Outcome: President C is removed from office for violating the Constitution. The Vice-President assumes the role of Acting President until a new President is elected.

#### Example 4:

Scenario: President Completes Full Term and Successor Takes Office

Situation: President D completes the full five-year term in office. The election for the new President is conducted smoothly, and President E is elected.

Action: On the last day of President D's term, a formal ceremony is held where President E takes the oath of office.

Outcome: President D steps down, and President E officially assumes the office of the President. The transition of power is completed as per the constitutional provisions.

### **Article 57: Eligibility for re-election.**

A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

### **Simplified act**

A person who is currently the President, or who has been the President before, can run for re-election to become President again, as long as they follow the other rules in the Constitution.

Explanation using Example

Example 1:

Mr. Rajesh Sharma served as the President of India from 2012 to 2017. After completing his term, he decided to run for the presidency again in the 2022 elections. According to Article 57 of the Constitution of India, Mr. Sharma is eligible to be re-elected as President, provided he meets all other constitutional requirements.

Example 2:

Ms. Anjali Verma was elected as the President of India in 2007 and served until 2012. After her term ended, she took a break from politics. In 2027, she expressed her interest in running for the presidency again. Under Article 57, Ms. Verma is eligible to contest the presidential election once more, as there is no restriction on the number of terms a person can serve as President, subject to other constitutional provisions.

### **Article 58: Qualifications for election as President.**

Eligibility for Election as President

(1) No person shall be eligible for election as President unless he -

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

#### Explanation

For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor \* \* \* of any State or is a Minister either for the Union or for any State.

### **Simplified act**

#### Eligibility for Election as President

(1) A person can only be elected as President if they:

(a) are a citizen of India,

(b) are at least 35 years old, and

(c) are eligible to be elected as a member of the House of the People (Lok Sabha).

(2) A person cannot be elected as President if they have a job that earns money from the Government of India, any State Government, or any local or other authority controlled by these governments.

#### Explanation

For this rule, a person is not considered to have a job that earns money from the government just because they are the President, Vice-President, Governor of any State, or a Minister for the Union or any State.

#### Explanation using Example

##### Example 1:

Rajesh is a 40-year-old Indian citizen who has been actively involved in politics for the past 15 years. He has previously served as a Member of Parliament (MP) in the Lok Sabha (House of the People). Rajesh is currently not holding any office of profit under the Government of India, any State Government, or any local authority. Given his age, citizenship, and previous qualification as an MP, Rajesh is eligible to run for the office of the President of India.

Example 2:

Anita is a 50-year-old Indian citizen who has a successful career in the private sector. She has never held any political office but is interested in running for the President of India. Despite her age and citizenship, Anita is not eligible to run for President because she has never been qualified for election as a member of the House of the People (Lok Sabha).

Example 3:

Vikram is a 60-year-old Indian citizen who is currently serving as the Governor of a State. He has previously been elected as a Member of the Legislative Assembly (MLA) but not as a Member of Parliament. Since the position of Governor is not considered an office of profit under the Government, Vikram is eligible to run for the office of the President of India, provided he meets the other qualifications.

Example 4:

Sunita is a 45-year-old Indian citizen who is currently serving as a Cabinet Minister in the Union Government. She has also previously served as an MP in the Lok Sabha. Since being a Minister is not considered an office of profit under the Government, Sunita is eligible to run for the office of the President of India.

Example 5:

Ramesh is a 38-year-old Indian citizen who is currently employed as a senior bureaucrat in a State Government. Despite his age and citizenship, Ramesh is not eligible to run for the office of the President of India because he holds an office of profit under the State Government.

**Article 59: Conditions of President's office.**

(1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances

and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

### **Simplified act**

(1) The President cannot be a member of either House of Parliament or any State Legislature. If someone who is a member of either House of Parliament or any State Legislature is elected as President, they will automatically lose their seat in that House on the day they start their job as President.

(2) The President cannot have any other job that pays money.

(3) The President can live in the official residences without paying rent and will receive a salary, allowances, and other benefits as decided by Parliament. Until Parliament makes these decisions, the President will get the salary, allowances, and benefits listed in the Second Schedule.

(4) The President's salary and allowances cannot be reduced while they are in office.

#### Explanation using Example

##### Example 1:

Scenario: Dr. A.P.J. Abdul Kalam, a member of the Rajya Sabha, is elected as the President of India.

Application of Article 59(1): Upon being elected as the President, Dr. Kalam must vacate his seat in the Rajya Sabha. This means he can no longer serve as a member of the Rajya Sabha from the date he assumes office as the President.

Explanation: This ensures that the President remains impartial and does not hold any legislative power while serving as the head of the state.

##### Example 2:

Scenario: Mr. Ram Nath Kovind, before becoming the President, holds a position as the Chairman of a government-owned corporation, which is considered an office of profit.

Application of Article 59(2): Mr. Kovind must resign from his position as the Chairman of the government-owned corporation before assuming the office of the President.

Explanation: This provision ensures that the President does not have any conflicting interests or financial benefits from other positions while serving as the head of the state.

Example 3:

Scenario: The President of India, residing in Rashtrapati Bhavan, does not pay rent for the official residence.

Application of Article 59(3): The President is entitled to use the official residence without paying rent and receives emoluments, allowances, and privileges as determined by Parliament.

Explanation: This provision ensures that the President is provided with necessary facilities and financial benefits to perform their duties without personal financial concerns.

Example 4:

Scenario: During the term of the President, the Parliament decides to reduce the salaries of all government officials due to an economic crisis.

Application of Article 59(4): The emoluments and allowances of the President cannot be reduced during their term of office, even if there is a general reduction in salaries for other government officials.

Explanation: This provision protects the financial independence and stability of the President's office, ensuring that the President's compensation remains unaffected by external economic pressures.

### **Article 60: Oath or affirmation by the President.**

Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say -

"I, A.B., do solemnly affirm (or swear in the name of God) that I will faithfully execute the office of President (or discharge the functions of the President) of



India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

### **Simplified act**

Every President and every person acting as President or doing the President's job must, before starting their duties, take an oath or make a promise in front of the Chief Justice of India. If the Chief Justice is not available, they can do it in front of the most senior Judge of the Supreme Court who is available. The oath or promise they make goes like this:

"I, A.B., do solemnly affirm (or swear in the name of God) that I will faithfully do the job of President (or perform the duties of the President) of India and will to the best of my ability preserve, protect, and defend the Constitution and the law, and that I will dedicate myself to the service and well-being of the people of India."

Explanation using Example

Example 1:

Scenario: The newly elected President of India, Mr. Rajesh Kumar, is about to assume office.

Application of Article 60: Before Mr. Rajesh Kumar can officially start his duties as the President of India, he must take an oath or make an affirmation. This ceremony is conducted in the presence of the Chief Justice of India. During the ceremony, Mr. Kumar will say:

"I, Rajesh Kumar, do solemnly affirm that I will faithfully execute the office of President of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

Only after this oath or affirmation is made and subscribed, Mr. Kumar can officially begin his term as the President.

Example 2:

Scenario: The current President of India is temporarily unable to perform his duties due to health reasons, and the Vice-President, Ms. Anjali Sharma, needs to act as the President.

Application of Article 60: Before Ms. Anjali Sharma can start performing the duties of the President, she must take an oath or make an affirmation. If the Chief Justice of India is unavailable, the senior-most Judge of the Supreme Court will oversee the ceremony. Ms. Sharma will say:

"I, Anjali Sharma, do solemnly affirm that I will discharge the functions of the President of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

After this oath or affirmation, Ms. Sharma can officially act as the President until the current President is able to resume his duties.

### **Article 61: Procedure for impeachment of the President.**

#### Impeachment of the President

(1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless -

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

### **Simplified act**

## Impeachment of the President

(1) If the President is to be impeached for breaking the Constitution, the accusation must be made by either the House of Representatives or the Senate.

(2) This accusation can only be made if -

(a) A proposal to make the accusation is included in a resolution that has been introduced after at least fourteen days' written notice. This notice must be signed by at least one-fourth of the members of the House intending to introduce the resolution, and

(b) The resolution has been approved by at least two-thirds of the total members of the House.

(3) Once the accusation has been made by one House of Parliament, the other House must investigate the accusation. The President has the right to appear and be represented during this investigation.

(4) If, after the investigation, a resolution is passed by at least two-thirds of the total members of the House that conducted the investigation, stating that the accusation against the President is valid, this resolution will result in the President being removed from office from the date the resolution is passed.

## Explanation using Example

### Example 1:

#### Scenario: Allegations of Constitutional Violation by the President

**Situation:** Suppose the President of India is accused of violating the Constitution by taking actions that undermine the democratic process. Members of Parliament (MPs) believe that the President has overstepped his authority by issuing directives that bypass the legislative process.

#### Procedure:

**Initiation of Charge:** A group of MPs from the Lok Sabha (House of the People) decides to initiate impeachment proceedings. They draft a resolution outlining the specific charges of constitutional violation.

**Notice Period:** The MPs provide a written notice of their intention to move the resolution. This notice is signed by at least one-fourth of the total members of the Lok Sabha and is submitted at least fourteen days before the resolution is moved.

**Passing the Resolution:** The resolution is then moved in the Lok Sabha. For the charge to be preferred, the resolution must be passed by a majority of not less than two-thirds of the total membership of the Lok Sabha.

**Investigation by Rajya Sabha:** Once the charge is preferred by the Lok Sabha, the Rajya Sabha (Council of States) is responsible for investigating the charge. The President has the right to appear and be represented during this investigation.

**Final Resolution:** If the Rajya Sabha, after investigation, passes a resolution by a two-thirds majority of its total membership declaring that the charge against the President is sustained, the President is removed from office effective from the date of the resolution.

#### Example 2:

##### Scenario: Impeachment Proceedings Due to Misuse of Presidential Powers

**Situation:** The President of India is accused of misusing presidential powers to grant pardons and reprieves in a manner that is seen as arbitrary and against the principles of justice. This action is perceived as a violation of the Constitution.

##### Procedure:

**Initiation of Charge:** Members of the Rajya Sabha decide to initiate impeachment proceedings. They draft a resolution detailing the charges of misuse of presidential powers.

**Notice Period:** The MPs provide a written notice of their intention to move the resolution. This notice is signed by at least one-fourth of the total members of the Rajya Sabha and is submitted at least fourteen days before the resolution is moved.

**Passing the Resolution:** The resolution is then moved in the Rajya Sabha. For the charge to be preferred, the resolution must be passed by a majority of not less than two-thirds of the total membership of the Rajya Sabha.

**Investigation by Lok Sabha:** Once the charge is preferred by the Rajya Sabha, the Lok Sabha is responsible for investigating the charge. The President has the right to appear and be represented during this investigation.

**Final Resolution:** If the Lok Sabha, after investigation, passes a resolution by a two-thirds majority of its total membership declaring that the charge against

the President is sustained, the President is removed from office effective from the date of the resolution.

**Article 62: Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.**

(1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

**Simplified act**

(1) When the President's term is about to end, a new election must be held and completed before the current President's term expires.

(2) If the President's position becomes vacant due to death, resignation, removal, or any other reason, a new election must be held as soon as possible, but no later than six months from the date the position became vacant. The person elected will serve a full term of five years starting from the day they take office, according to the rules in article 56.

Explanation using Example

Example 1:

Scenario: The current President of India, whose term is set to expire on July 25, 2025, is nearing the end of their term.

Application of Article 62(1): The Election Commission of India must ensure that the election for the new President is completed before July 25, 2025. This means that the entire election process, including nomination, campaigning, voting, and counting, must be concluded before the current President's term expires. For instance, if the election is scheduled for June 2025, the new President should be elected and ready to assume office by July 25, 2025.

Example 2:

Scenario: The President of India unexpectedly passes away on January 1, 2023.

Application of Article 62(2): In this case, the Election Commission of India must organize an election to fill the vacancy as soon as possible, but no later than six months from January 1, 2023. This means the election must be held by July 1, 2023, at the latest. Suppose the election is held on May 15, 2023, and a new President is elected. The newly elected President will then serve a full term of five years starting from the date they assume office, say May 20, 2023, and will hold office until May 19, 2028.

### **Article 63: The Vice-President of India.**

There shall be a Vice-President of India.

### **Article 64: The Vice-President to be ex officio Chairman of the Council of States.**

- The Vice-President shall be ex officio Chairman of the Council of the States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

### **Simplified act**

The Vice-President will automatically be the Chairman of the Council of States and cannot have any other job that makes money:

However, if the Vice-President has to act as the President or take over the President's duties according to article 65, he will not do the Chairman's job for the Council of States and will not get the salary or benefits that the Chairman of the Council of States gets according to article 97.

Explanation using Example

Example 1:

Scenario: The Vice-President of India, Mr. Rajesh Kumar, is currently serving his term. As per Article 64 of the Constitution of India, he is also the ex officio Chairman of the Rajya Sabha (Council of States).

Application: During a session of the Rajya Sabha, Mr. Kumar presides over the proceedings, ensuring that the debates are conducted in an orderly manner. He has the authority to decide on points of order and can cast a vote in case of a tie. This dual role is a direct application of Article 64, which mandates that the Vice-President shall be the Chairman of the Council of States.

Example 2:

Scenario: The President of India, Mrs. Anjali Sharma, falls ill and is unable to perform her duties. As per Article 65 of the Constitution, the Vice-President, Mr. Rajesh Kumar, steps in to discharge the functions of the President.

Application: During this period, Mr. Kumar cannot perform his duties as the Chairman of the Rajya Sabha. Instead, the Deputy Chairman of the Rajya Sabha takes over the responsibilities of presiding over the sessions. Additionally, Mr. Kumar will not receive the salary or allowances designated for the Chairman of the Rajya Sabha during this time, as specified under Article 97. This ensures that there is no conflict of interest and that the roles are clearly separated when the Vice-President is acting as the President.

**Article 65: The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President.**

(1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision

in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

### **Simplified act**

(1) If the President's position becomes vacant because of death, resignation, removal, or any other reason, the Vice-President will take over as President until a new President is elected and starts their term.

(2) If the President cannot perform their duties due to being away, sick, or any other reason, the Vice-President will perform the President's duties until the President is able to resume them.

(3) While the Vice-President is acting as President or performing the President's duties, they will have all the powers and protections of the President. They will also receive the same salary, allowances, and benefits as the President, as decided by Parliament, or as specified in the Second Schedule until Parliament makes a decision.

#### Explanation using Example

##### Example 1:

Scenario: The President of India passes away unexpectedly.

Situation: The President of India, unfortunately, passes away due to a sudden illness. According to Article 65(1) of the Constitution of India, the Vice-President will step in to act as the President. The Vice-President will continue to perform the duties of the President until a new President is elected and takes office. During this period, the Vice-President will have all the powers, immunities, and privileges of the President.

Outcome: The Vice-President assumes the role of Acting President and ensures the continuity of the executive functions of the government. A new presidential election is conducted, and once the new President is elected and sworn in, the Vice-President returns to his original role.

##### Example 2:

Scenario: The President of India is undergoing a major surgery and will be unable to perform his duties for a month.

Situation: The President of India needs to undergo a major surgery and will be incapacitated for a month. According to Article 65(2) of the Constitution of



India, the Vice-President will discharge the functions of the President during this period. The Vice-President will take over the responsibilities and powers of the President until the President recovers and is able to resume his duties.

Outcome: The Vice-President temporarily takes over the presidential duties, ensuring that there is no disruption in the functioning of the executive branch. Once the President recovers and is fit to resume his duties, the Vice-President steps back to his original role.

#### Example 3:

Scenario: The President of India is on an official visit abroad for two weeks.

Situation: The President of India is scheduled to visit several countries on an official tour for two weeks. During this period, according to Article 65(2) of the Constitution of India, the Vice-President will discharge the functions of the President. The Vice-President will handle all presidential duties and responsibilities until the President returns from the official visit.

Outcome: The Vice-President ensures that the executive functions of the government continue smoothly in the absence of the President. Upon the President's return, the Vice-President resumes his regular duties.

#### Example 4:

Scenario: The President of India resigns from office.

Situation: The President of India decides to resign from office due to personal reasons. According to Article 65(1) of the Constitution of India, the Vice-President will act as the President until a new President is elected and takes office. The Vice-President will have all the powers, immunities, and privileges of the President during this interim period.

Outcome: The Vice-President assumes the role of Acting President and oversees the executive functions of the government. A new presidential election is held, and once the new President is elected and sworn in, the Vice-President returns to his original role.

### **Article 66: Election of Vice-President.**

(1) The Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he -

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation. - For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor \* \* \* of any State or is a Minister either for the Union or for any State.

### **Simplified act**

(1) The Vice-President will be chosen by a group of people made up of members from both Houses of Parliament. This election will use a system called proportional representation with a single transferable vote, and the voting will be done in secret.

(2) The Vice-President cannot be a member of either House of Parliament or any State Legislature. If someone who is already a member of these bodies is elected as Vice-President, they will automatically lose their seat in that body on the day they start their job as Vice-President.

(3) To be eligible to become Vice-President, a person must:

(a) Be a citizen of India;

(b) Be at least thirty-five years old; and

(c) Be qualified to be elected as a member of the Council of States (Rajya Sabha).

(4) A person cannot be elected as Vice-President if they have a job that earns money under the Government of India, any State Government, or any local or other authority controlled by these governments.

Explanation. - For this rule, a person is not considered to have a job that earns money just because they are the President or Vice-President of India, the Governor of any State, or a Minister for the Union or any State.

Explanation using Example

Example 1:

Scenario: Election of the Vice-President of India

Context: The members of both the Lok Sabha (House of the People) and the Rajya Sabha (Council of States) are preparing to elect a new Vice-President.

Process:

Electoral College: The election is conducted by an electoral college consisting of all the members of both Houses of Parliament.

Voting System: The election uses a system of proportional representation by means of a single transferable vote, and the voting is done by secret ballot to ensure confidentiality.

Eligibility: A candidate, Mr. Sharma, is running for the position. He is a citizen of India, 45 years old, and qualified to be a member of the Rajya Sabha.

Current Position: Mr. Sharma is currently a member of the Lok Sabha. Upon being elected as Vice-President, he will automatically vacate his seat in the Lok Sabha on the date he assumes office as Vice-President.

Outcome: Mr. Sharma wins the election and becomes the Vice-President of India. He resigns from his Lok Sabha seat and takes the oath of office as the Vice-President.

Example 2:

Scenario: Disqualification of a Vice-Presidential Candidate

Context: Ms. Verma is a candidate for the Vice-President election. However, she currently holds a position as the CEO of a government-owned corporation, which is considered an office of profit under the Government of India.

Process:

Eligibility Check: The Election Commission reviews the eligibility criteria for all candidates.

Disqualification: Ms. Verma is found to be holding an office of profit under the Government of India, which disqualifies her from running for the Vice-President position.

Notification: The Election Commission notifies Ms. Verma of her disqualification based on Article 66(4) of the Constitution of India.

Outcome: Ms. Verma is disqualified from the election, and her name is removed from the list of candidates. The election proceeds with the remaining eligible candidates.

Example 3:

Scenario: A Minister Running for Vice-President

Context: Mr. Rao, a current Union Minister, decides to run for the Vice-President election.

Process:

Eligibility Check: The Election Commission reviews Mr. Rao's eligibility.

Office of Profit Exception: Although Mr. Rao is a Union Minister, he is not disqualified because the Constitution explicitly states that being a Minister does not count as holding an office of profit.

Election: Mr. Rao participates in the election conducted by the electoral college of both Houses of Parliament.

Outcome: Mr. Rao wins the election and becomes the Vice-President of India. He resigns from his ministerial position and assumes the office of the Vice-President.

Example 4:

Scenario: Age and Citizenship Requirement

Context: Mr. Patel, a 30-year-old Indian citizen, expresses his desire to run for the Vice-President election.

Process:

Eligibility Check: The Election Commission reviews Mr. Patel's eligibility.

Age Requirement: Mr. Patel is found to be ineligible because he has not yet completed the age of 35 years, which is a mandatory requirement.

Notification: The Election Commission notifies Mr. Patel of his ineligibility based on Article 66(3)(b) of the Constitution of India.

Outcome: Mr. Patel is disqualified from the election due to not meeting the age requirement. The election proceeds with other eligible candidates.

### **Article 67: Term of office of Vice-President.**

The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that -

(a) A Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) A Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

### **Simplified act**

The Vice-President will serve for five years starting from the day they take office:

However -

(a) The Vice-President can resign by writing a letter to the President;

(b) The Vice-President can be removed from office if the Council of States passes a resolution with a majority vote and the House of the People agrees. But, this resolution can only be proposed if at least fourteen days' notice is given beforehand;

(c) Even after the five-year term ends, the Vice-President will stay in office until the next Vice-President takes over.

#### Explanation using Example

##### Example 1:

###### Scenario: Resignation of the Vice-President

Situation: Mr. Sharma is the Vice-President of India. After serving for three years, he decides to resign due to personal reasons.

###### Application of the Act:

Mr. Sharma writes a resignation letter addressed to the President of India.

In his letter, he clearly states his intention to resign from the office of the Vice-President.

Upon receiving the resignation letter, the President accepts his resignation.

Mr. Sharma's term as Vice-President ends as soon as the President accepts his resignation.

Outcome: Mr. Sharma is no longer the Vice-President, and the process to elect a new Vice-President begins.

##### Example 2:

###### Scenario: Removal of the Vice-President

Situation: There are allegations of misconduct against Vice-President Ms. Rao. Members of the Council of States (Rajya Sabha) decide to initiate the process to remove her from office.

###### Application of the Act:

A resolution to remove Ms. Rao is drafted and signed by several members of the Council of States.

The resolution is submitted with at least fourteen days' notice before it is moved in the Council of States.

The resolution is debated and voted upon in the Council of States. A majority of all the then members of the Council of States vote in favor of the resolution.

The resolution is then sent to the House of the People (Lok Sabha) for agreement.

The House of the People agrees to the resolution by a majority vote.

Outcome: Ms. Rao is removed from the office of the Vice-President, and the process to elect a new Vice-President begins.

Example 3:

Scenario: Completion of Term and Continuation in Office

Situation: Vice-President Mr. Kumar's five-year term is coming to an end, but the election for the new Vice-President has not yet been completed.

Application of the Act:

Mr. Kumar's five-year term officially ends.

However, according to the act, Mr. Kumar continues to hold office until his successor is duly elected and enters upon the office.

Outcome: Mr. Kumar remains in office as the Vice-President until the new Vice-President is elected and takes over the responsibilities.

**Article 68: Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.**

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

**Simplified act**

(1) If the Vice-President's term is ending, a new election must be held and completed before the current term ends.

(2) If the Vice-President's position becomes vacant due to death, resignation, removal, or any other reason, a new election must be held as soon as possible.

The person elected will serve a full five-year term starting from the day they take office, according to the rules in article 67.

#### Explanation using Example

##### Example 1:

Scenario: The current Vice-President of India, Mr. Sharma, is nearing the end of his five-year term, which is set to expire on December 31, 2023.

Application of the Act: According to Article 68(1), an election to fill the vacancy caused by the expiration of Mr. Sharma's term must be completed before December 31, 2023. This ensures that there is no gap in the office of the Vice-President, and the new Vice-President can take office immediately after Mr. Sharma's term ends.

Outcome: The Election Commission of India schedules the election for the new Vice-President in November 2023, and the results are declared by mid-December 2023. The newly elected Vice-President, Ms. Kapoor, takes office on January 1, 2024, ensuring a smooth transition.

##### Example 2:

Scenario: The Vice-President of India, Mr. Verma, unexpectedly passes away on March 15, 2024, leaving the office vacant.

Application of the Act: According to Article 68(2), an election to fill the vacancy caused by Mr. Verma's death must be held as soon as possible. The person elected to fill this vacancy will hold office for a full term of five years from the date they assume office.

Outcome: The Election Commission of India promptly announces an election to fill the vacancy. The election is conducted in April 2024, and the results are declared by the end of April. The newly elected Vice-President, Mr. Singh, takes office on May 1, 2024, and will serve a full term of five years until April 30, 2029.

#### **Article 69: Oath or affirmation by the Vice-President.**

Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say -



"I, A.B., do swear in the name of God that I will bear true faith and solemnly affirm allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

### **Simplified act**

Every Vice-President must take an oath or make a promise before starting their job. This oath or promise is made in front of the President or someone the President chooses. The oath or promise goes like this:

"I, A.B., swear in the name of God that I will be loyal to the Constitution of India and will do my job faithfully."

Explanation using Example

Example 1:

Scenario: Rajesh Kumar has been elected as the new Vice-President of India. Before he can officially start his duties, he must take an oath.

Process:

Rajesh Kumar is scheduled to take the oath at Rashtrapati Bhavan.

The President of India, or a designated official, is present to administer the oath.

Rajesh Kumar stands before the President and recites the following oath:

"I, Rajesh Kumar, do swear in the name of God that I will bear true faith and solemnly affirm allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

After reciting the oath, Rajesh Kumar signs a document confirming that he has taken the oath.

Rajesh Kumar is now officially the Vice-President of India and can begin his duties.

Example 2:

Scenario: Meera Sharma has been appointed as the Vice-President of India. Due to unforeseen circumstances, the President is unable to administer the oath.

Process:

The President appoints the Chief Justice of India to administer the oath on his behalf.

Meera Sharma is scheduled to take the oath at the Supreme Court of India.

The Chief Justice of India is present to administer the oath.

Meera Sharma stands before the Chief Justice and recites the following oath:

"I, Meera Sharma, do swear in the name of God that I will bear true faith and solemnly affirm allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

After reciting the oath, Meera Sharma signs a document confirming that she has taken the oath.

Meera Sharma is now officially the Vice-President of India and can begin her duties.

### **Article 70: Discharge of President's functions in other contingencies.**

Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

### **Simplified act**

Parliament can create rules or take actions to handle the President's duties in any situation that is not already covered in this Chapter.

Explanation using Example

Example 1:

Scenario: The President of India is on an official visit to a foreign country and suddenly falls seriously ill, rendering him unable to perform his duties.

Application: In this situation, Parliament can enact a law or make provisions to ensure that the President's functions are carried out by another authority or individual until the President recovers or a new President is elected. This ensures that the executive functions of the country continue smoothly without any disruption.

Example 2:

Scenario: The President of India is temporarily incapacitated due to a severe accident and is unable to communicate or make decisions.

Application: Parliament may decide to pass a law that allows the Vice-President or another designated official to assume the President's responsibilities during this period of incapacity. This provision ensures that there is no vacuum in the executive leadership and that the governance of the country remains stable and continuous.

**Article 71: Matters relating to, or connected with, the election of a President or Vice-President.**

(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

**Simplified act**

(1) If there are any questions or disagreements about the election of the President or Vice-President, the Supreme Court will look into it and make a final decision.

(2) If the Supreme Court says that someone's election as President or Vice-President is not valid, anything they did while in office before the court's decision will still be considered valid.

(3) According to the rules of the Constitution, Parliament can make laws about anything related to the election of the President or Vice-President.

(4) The election of the President or Vice-President cannot be challenged just because there are empty seats in the group of people who voted for them.

Explanation using Example

### Example 1:

Scenario: A candidate, Mr. Sharma, is elected as the President of India. However, another candidate, Mr. Verma, alleges that there were irregularities in the voting process and files a petition in the Supreme Court challenging the election.

#### Application of Article 71:

Clause (1): The Supreme Court will inquire into the allegations made by Mr. Verma regarding the election of Mr. Sharma. The Court will examine the evidence and decide whether the election was conducted fairly. The decision of the Supreme Court will be final and binding.

Clause (2): If the Supreme Court finds that Mr. Sharma's election was invalid due to the irregularities, it will declare the election void. However, any decisions or actions taken by Mr. Sharma in his capacity as President before the Court's decision will remain valid and will not be affected by the declaration.

Clause (3): Parliament has the authority to create laws that regulate the election process of the President. This means that any procedural aspects or disputes not covered by the Constitution can be addressed through legislation.

Clause (4): The challenge to Mr. Sharma's election cannot be based on the argument that there were vacancies in the electoral college (e.g., some members were absent or positions were unfilled) at the time of the election.

### Example 2:

Scenario: Ms. Rao is elected as the Vice-President of India. After her election, it is discovered that she holds an office of profit under the Government of India, which could disqualify her from being elected. A petition is filed in the Supreme Court to challenge her election.

#### Application of Article 71:

Clause (1): The Supreme Court will investigate the claim that Ms. Rao was ineligible to be elected as Vice-President due to holding an office of profit. The Court will review the facts and make a final decision on the matter.

Clause (2): If the Supreme Court declares Ms. Rao's election void, any official acts she performed as Vice-President before the Court's decision will still be considered valid and will not be invalidated by the ruling.

Clause (3): Parliament has the power to enact laws that address issues related to the election of the Vice-President, including disqualifications and other procedural matters.

Clause (4): The validity of Ms. Rao's election cannot be questioned on the basis that there were vacancies in the electoral college at the time of her election.

**Article 72: Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.**

Presidential Powers of Pardon

(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence:

- (a) in all cases where the punishment or sentence is by a Court Martial;
- (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
- (c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor \* \* \* of a State under any law for the time being in force.

**Simplified act**

Presidential Powers of Pardon

(1) The President has the authority to forgive or reduce the punishment of someone convicted of a crime. This includes:

- (a) Any case where the punishment was decided by a military court;
- (b) Any case where the punishment is for breaking a law that the central government is responsible for;
- (c) Any case where the punishment is the death penalty.

(2) The power given to military officers to reduce or change a punishment decided by a military court is not affected by the President's power mentioned in (1)(a).

(3) The power of a State Governor to reduce or change a death sentence under existing laws is not affected by the President's power mentioned in (1)(c).

#### Explanation using Example

##### Example 1:

Ravi, a soldier in the Indian Army, was court-martialed and sentenced to 10 years in prison for a serious breach of military conduct. After serving 5 years, Ravi's family petitions the President of India for a pardon, citing his exemplary behavior during imprisonment and his previous unblemished service record. The President, after reviewing the case and consulting with military authorities, decides to grant a remission of the remaining sentence. Ravi is released from prison and allowed to return to civilian life.

##### Example 2:

Sunita was convicted of a serious crime and sentenced to death by a state court. Her family, believing that there were mitigating circumstances that were not adequately considered during the trial, submits a mercy petition to the President of India. The President, after considering the petition, the recommendations of the Home Ministry, and the opinions of legal experts, decides to commute Sunita's death sentence to life imprisonment. Sunita's sentence is thus reduced, and she is spared from execution.

##### Example 3:

Ajay, a businessman, was convicted under a central law related to financial fraud and sentenced to 15 years in prison. After serving 7 years, Ajay's health deteriorates significantly, and his family requests a reprieve from the President on humanitarian grounds. The President, taking into account Ajay's health condition and the recommendations from medical experts, grants a reprieve, temporarily suspending Ajay's sentence to allow him to receive necessary medical treatment.

##### Example 4:

Amit, a state government employee, was convicted of corruption and sentenced to 5 years in prison. After serving 3 years, Amit's family submits a petition to

the Governor of the state for a remission of the remaining sentence. The Governor, exercising the powers conferred by state law, decides to remit the remaining 2 years of Amit's sentence. Amit is released from prison and allowed to reintegrate into society.

**Article 73: Extent of executive power of the Union.**

(1) Subject to the provisions of this Constitution, the executive power of the Union shall extend -

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State \* \* \* to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

**Simplified act**

(1) According to this Constitution, the central government's executive power includes:

(a) Matters that Parliament can make laws about; and

(b) Rights, authority, and control that the Government of India can use because of any treaty or agreement:

However, the central government's executive power mentioned in (a) does not apply to matters in a State where the State's Legislature also has the power to make laws, unless specifically stated in this Constitution or any law made by Parliament.

(2) Until Parliament decides otherwise, a State and its officers or authorities can continue to use their executive power or perform their functions on matters that Parliament can make laws about for that State, just as they did before this Constitution started.

Explanation using Example

Example 1:

Scenario: The Central Government's Role in National Defense

Context: National defense is a matter on which only the Parliament has the power to make laws.

Application: The executive power of the Union extends to national defense. This means that the Central Government, through the Ministry of Defense, can make decisions regarding the deployment of armed forces, procurement of defense equipment, and entering into defense treaties with other countries. For instance, if India decides to purchase fighter jets from another country, the Central Government has the authority to negotiate and finalize the deal.

Example 2:

Scenario: Implementation of an International Treaty on Climate Change

Context: The Government of India has signed an international treaty on climate change, which requires the country to reduce its carbon emissions.

Application: The executive power of the Union includes the authority to implement international treaties. Therefore, the Central Government can create policies and regulations to reduce carbon emissions, such as setting emission standards for industries, promoting renewable energy, and implementing carbon taxes. These actions are within the executive power of the Union as they are based on an international agreement.

Example 3:

Scenario: Overlapping Powers in Education

Context: Both the Parliament and State Legislatures have the power to make laws on education.

Application: While the Central Government can make laws and policies regarding education, the executive power in this area does not extend to the States unless expressly provided by the Constitution or a law made by



Parliament. For example, if the Central Government introduces a new national education policy, it cannot directly enforce it in a State unless the State Legislature also adopts it or there is a specific provision allowing the Central Government to do so.

Example 4:

Scenario: State Government's Continued Authority in Public Health

Context: Public health is a matter on which both the Parliament and State Legislatures can make laws.

Application: Until the Parliament provides otherwise, State Governments and their officers can continue to exercise executive powers in public health matters. For instance, if a State Government had the authority to manage public health services before the Constitution commenced, it can continue to do so. This means that a State Health Department can implement health programs, manage hospitals, and respond to health emergencies like outbreaks of diseases, even though the Parliament also has the power to make laws on public health.

## **PART V: THE UNION**

### **CHAPTER I: THE EXECUTIVE**

#### **COUNCIL OF MINISTERS**

##### **Article 74: Council of Ministers to aid and advise President.**

Article - Council of Ministers

(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice:

Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

#### **Simplified act**

## Article - Council of Ministers

(1) There will be a group of ministers called the Council of Ministers, led by the Prime Minister. Their job is to help and give advice to the President. The President must follow this advice when doing his duties:

However, the President can ask the Council of Ministers to think again about their advice, either in general or on specific points. After they reconsider, the President must follow the new advice they give.

(2) No court is allowed to question whether the ministers gave any advice to the President or what that advice was.

### Explanation using Example

#### Example 1:

Scenario: The President of India is considering signing a new bill into law that has been passed by both houses of Parliament. However, the President has some reservations about the bill's implications.

#### Application of Article 74:

The President seeks advice from the Council of Ministers, headed by the Prime Minister, on whether to sign the bill into law.

The Council of Ministers advises the President to sign the bill.

The President, still unsure, asks the Council of Ministers to reconsider their advice.

After reconsideration, the Council of Ministers again advises the President to sign the bill.

According to Article 74, the President must act in accordance with the advice tendered after reconsideration and thus signs the bill into law.

#### Example 2:

Scenario: A situation arises where the President of India needs to make a decision on a matter of national security, such as deploying armed forces in a conflict zone.

#### Application of Article 74:

The President consults the Council of Ministers for their advice on the deployment of armed forces.

The Council of Ministers, after deliberation, advises the President to proceed with the deployment.

The President, considering the gravity of the situation, asks the Council of Ministers to reconsider their advice.

After reconsideration, the Council of Ministers reaffirms their advice to deploy the armed forces.

As per Article 74, the President is bound to act in accordance with the advice given after reconsideration and orders the deployment of the armed forces.

Example 3:

Scenario: The President of India is required to appoint a new Chief Justice of India.

Application of Article 74:

The President seeks the advice of the Council of Ministers on the appointment.

The Council of Ministers recommends a particular candidate for the position.

The President, wanting to ensure the best choice, asks the Council of Ministers to reconsider their recommendation.

After reconsideration, the Council of Ministers stands by their original recommendation.

Following Article 74, the President must act according to the advice given after reconsideration and appoints the recommended candidate as the new Chief Justice of India.

Example 4:

Scenario: The President of India is considering granting a pardon to a convict on death row.

Application of Article 74:

The President seeks the advice of the Council of Ministers on whether to grant the pardon.

The Council of Ministers advises against granting the pardon.

The President, feeling the need for further reflection, asks the Council of Ministers to reconsider their advice.

After reconsideration, the Council of Ministers maintains their stance against granting the pardon.

In accordance with Article 74, the President must follow the advice given after reconsideration and decides not to grant the pardon.

**Article 75: Other provisions as to Ministers.**

(1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

### **Simplified act**

(1) The Prime Minister is chosen by the President. The other Ministers are chosen by the President based on the Prime Minister's advice.

(1A) The total number of Ministers, including the Prime Minister, cannot be more than fifteen percent of the total number of members in the House of the People.

(1B) If a member of Parliament from any political party is disqualified under paragraph 2 of the Tenth Schedule, they cannot be appointed as a Minister until their disqualification period ends or until they are re-elected, whichever comes first.

(2) Ministers stay in their positions as long as the President wants them to.

(3) The Council of Ministers is collectively responsible to the House of the People.

(4) Before starting their job, a Minister must take an oath of office and secrecy, which is administered by the President according to the forms in the Third Schedule.

(5) If a Minister is not a member of either House of Parliament for six consecutive months, they will stop being a Minister at the end of that period.

(6) The salaries and allowances of Ministers are decided by Parliament through laws. Until Parliament makes such a decision, the salaries and allowances will be as specified in the Second Schedule.

Explanation using Example

Example 1:

Scenario: Appointment of Ministers

Situation: After a general election, the President of India needs to appoint the Prime Minister and other Ministers.

Application of the Act:

The President appoints the leader of the majority party in the Lok Sabha (House of the People) as the Prime Minister.

The Prime Minister then advises the President on the appointment of other Ministers.

The total number of Ministers, including the Prime Minister, does not exceed 15% of the total number of members of the Lok Sabha. For instance, if the Lok Sabha has 545 members, the Council of Ministers can have a maximum of 82 members (15% of 545).

Example 2:

Scenario: Disqualification of a Minister

Situation: A member of the Lok Sabha is disqualified under the Tenth Schedule (anti-defection law) for switching political parties.

Application of the Act:

The disqualified member cannot be appointed as a Minister during the period of disqualification.

If the disqualification period is until the end of the current Lok Sabha term, the member cannot be a Minister until the next general election.

If the disqualified member contests and wins a by-election before the end of the term, they can be appointed as a Minister once they are declared elected.

Example 3:

Scenario: Collective Responsibility

Situation: A controversial policy decision is made by the Council of Ministers, leading to widespread public criticism.

Application of the Act:

The entire Council of Ministers, including the Prime Minister, is collectively responsible to the Lok Sabha.

If the Lok Sabha passes a vote of no confidence against the Council of Ministers, all Ministers, including the Prime Minister, must resign.

Example 4:

Scenario: Oath of Office

Situation: A newly appointed Minister is about to assume office.

Application of the Act:

Before taking office, the new Minister must take the oath of office and secrecy administered by the President.

The oath is in the form set out in the Third Schedule of the Constitution.

Example 5:

Scenario: Minister Not a Member of Parliament

Situation: A person is appointed as a Minister but is not a member of either House of Parliament.

Application of the Act:

The appointed Minister must become a member of either the Lok Sabha or the Rajya Sabha within six months.

If the Minister fails to become a member within six months, they must cease to be a Minister at the end of that period.

Example 6:

Scenario: Salaries and Allowances of Ministers

Situation: The Parliament is debating a bill to revise the salaries and allowances of Ministers.

Application of the Act:

The salaries and allowances of Ministers are determined by Parliament through legislation.

Until Parliament enacts a new law, the salaries and allowances specified in the Second Schedule of the Constitution apply.

## **PART V: THE UNION**

### **CHAPTER I: THE EXECUTIVE**

#### **THE ATTORNEY-GENERAL FOR INDIA**

## **Article 76: Attorney-General for India.**

Attorney-General for India

- (1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.
- (2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.
- (3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.
- (4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

### **Simplified act**

Attorney-General for India

- (1) The President will choose someone who is qualified to be a Judge of the Supreme Court to be the Attorney-General for India.
- (2) The Attorney-General's job is to give legal advice to the Government of India on various legal issues and to do other legal tasks assigned by the President. The Attorney-General also has to carry out duties given by the Constitution or any other current law.
- (3) While doing his job, the Attorney-General has the right to speak in all courts in India.
- (4) The Attorney-General will stay in the job as long as the President wants and will be paid a salary decided by the President.

Explanation using Example

Example 1:

Scenario: The Government of India is considering implementing a new policy related to data privacy and protection.

Application of Article 76:



**Appointment:** The President of India appoints Mr. Sharma, a senior advocate qualified to be a Supreme Court judge, as the Attorney-General for India.

**Duty to Advise:** The Ministry of Electronics and Information Technology seeks legal advice on the new data privacy policy. The Attorney-General, Mr. Sharma, reviews the policy and provides his legal opinion on its compliance with the Constitution and existing laws.

**Right of Audience:** A public interest litigation is filed in the Supreme Court challenging the new data privacy policy. Mr. Sharma, as the Attorney-General, represents the Government of India in the court, arguing in favor of the policy.

**Tenure and Remuneration:** Mr. Sharma continues to serve as the Attorney-General as long as he enjoys the confidence of the President. He receives remuneration as determined by the President.

#### Example 2:

**Scenario:** A constitutional amendment is proposed to change the structure of the Goods and Services Tax (GST) in India.

#### Application of Article 76:

**Appointment:** The President appoints Ms. Rao, an eminent lawyer with qualifications to be a Supreme Court judge, as the Attorney-General for India.

**Duty to Advise:** The Finance Ministry seeks Ms. Rao's legal opinion on the proposed constitutional amendment related to GST. She examines the amendment and advises on its legal implications and constitutionality.

**Right of Audience:** The amendment is challenged in the High Court by a group of businesses. Ms. Rao, as the Attorney-General, appears in the High Court to defend the amendment on behalf of the Government of India.

**Tenure and Remuneration:** Ms. Rao serves as the Attorney-General at the pleasure of the President and receives a salary as determined by the President.

#### Example 3:

**Scenario:** The Government of India needs to defend a controversial law related to land acquisition in the Supreme Court.

#### Application of Article 76:

**Appointment:** The President appoints Mr. Verma, a distinguished lawyer eligible to be a Supreme Court judge, as the Attorney-General for India.

**Duty to Advise:** The Ministry of Rural Development seeks Mr. Verma's legal advice on the land acquisition law. He provides a detailed legal opinion on the law's provisions and their alignment with constitutional principles.

**Right of Audience:** The law is challenged in the Supreme Court by various stakeholders, including farmers and NGOs. Mr. Verma, as the Attorney-General, represents the Government of India, presenting arguments to justify the law.

**Tenure and Remuneration:** Mr. Verma holds the office of Attorney-General as long as he has the President's confidence and receives remuneration as decided by the President.

Example 4:

**Scenario:** The Government of India is involved in an international arbitration case regarding a trade dispute.

Application of Article 76:

**Appointment:** The President appoints Ms. Kapoor, a renowned lawyer qualified to be a Supreme Court judge, as the Attorney-General for India.

**Duty to Advise:** The Ministry of Commerce seeks Ms. Kapoor's legal advice on the international arbitration case. She provides her expert opinion on the legal strategy and implications of the case.

**Right of Audience:** The case is brought before the International Court of Justice. Although the Attorney-General's right of audience is primarily within Indian courts, Ms. Kapoor's expertise and advice are crucial in preparing the Government's legal team for the international proceedings.

**Tenure and Remuneration:** Ms. Kapoor serves as the Attorney-General at the pleasure of the President and is compensated as per the President's determination.

## **PART V: THE UNION**

### **CHAPTER I: THE EXECUTIVE**

#### **CONDUCT OF GOVERNMENT BUSINESS**

## **Article 77: Conduct of business of the Government of India.**

(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

(4) \* \* \* \*

### **Simplified act**

(1) All actions taken by the Government of India must be done in the name of the President.

(2) Any orders or documents made in the name of the President must be verified in a way that the President decides. Once verified, no one can question whether the order or document was actually made by the President.

(3) The President will create rules to make it easier to manage the government's work and to divide this work among the Ministers.

(4) \* \* \* \*

Explanation using Example

Example 1:

Scenario: Issuance of a Government Order for Infrastructure Development

Context: The Ministry of Road Transport and Highways decides to build a new highway connecting two major cities in India.

Application of Article 77:

Executive Action in the Name of the President: The decision to build the highway is an executive action and must be expressed as being taken in the name of the President of India.

**Authentication of Orders:** The official order for the construction of the highway is issued in the name of the President and is authenticated by the designated officer as per the rules specified by the President.

**Validity of the Order:** The order, once authenticated, cannot be challenged on the grounds that it was not personally made or executed by the President.

**Rules for Transaction of Business:** The President has made rules that allocate the responsibility of infrastructure development to the Ministry of Road Transport and Highways, ensuring smooth and efficient handling of the project.

Example 2:

**Scenario:** Allocation of Portfolios among Ministers

**Context:** After a general election, a new government is formed, and the Prime Minister needs to allocate various ministries to the newly appointed ministers.

**Application of Article 77:**

**Executive Action in the Name of the President:** The allocation of portfolios to the ministers is an executive action and must be expressed as being taken in the name of the President of India.

**Authentication of Orders:** The official notification detailing the allocation of ministries is issued in the name of the President and is authenticated by the Cabinet Secretary as per the rules specified by the President.

**Validity of the Order:** The notification, once authenticated, cannot be questioned on the grounds that it was not personally made or executed by the President.

**Rules for Transaction of Business:** The President has established rules for the allocation of business among ministers, ensuring that each minister knows their responsibilities and can carry out their duties effectively.

Example 3:

**Scenario:** Issuance of a Financial Grant to a State Government

**Context:** The Central Government decides to provide a financial grant to a state government for disaster relief after a natural calamity.

**Application of Article 77:**

**Executive Action in the Name of the President:** The decision to provide the financial grant is an executive action and must be expressed as being taken in the name of the President of India.

**Authentication of Orders:** The official order for the release of funds is issued in the name of the President and is authenticated by the Finance Secretary as per the rules specified by the President.

**Validity of the Order:** The order, once authenticated, cannot be challenged on the grounds that it was not personally made or executed by the President.

**Rules for Transaction of Business:** The President has made rules that allocate the responsibility of disaster relief funds to the Ministry of Finance, ensuring that the funds are disbursed efficiently and transparently.

Example 4:

Scenario: Appointment of a High-Ranking Official

Context: The Government of India decides to appoint a new Chief Election Commissioner.

Application of Article 77:

**Executive Action in the Name of the President:** The appointment of the Chief Election Commissioner is an executive action and must be expressed as being taken in the name of the President of India.

**Authentication of Orders:** The official order for the appointment is issued in the name of the President and is authenticated by the Secretary of the Ministry of Law and Justice as per the rules specified by the President.

**Validity of the Order:** The order, once authenticated, cannot be questioned on the grounds that it was not personally made or executed by the President.

**Rules for Transaction of Business:** The President has established rules for the appointment of high-ranking officials, ensuring that the process is transparent and follows the established guidelines.

**Article 78: Duties of Prime Minister as respects the furnishing of information to the President, etc.**

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

### **Simplified act**

(a) To inform the President about all decisions made by the Council of Ministers regarding the management of the country's affairs and any new laws they want to introduce;

(b) To provide any information about the management of the country's affairs and new laws that the President asks for; and

(c) If the President asks, to bring up for discussion in the Council of Ministers any issue that a Minister has decided on but the Council has not yet discussed.

Explanation using Example

Example 1:

Scenario: The Council of Ministers has decided to implement a new agricultural policy to support farmers.

Application of Article 78:

(a) The Prime Minister communicates this decision to the President, informing him about the new agricultural policy and its intended benefits.

(b) The President, interested in the specifics, asks for detailed information about the policy, including its financial implications and the expected outcomes. The Prime Minister provides a comprehensive report covering all these aspects.

(c) The President, after reviewing the report, feels that the policy should be reconsidered by the entire Council of Ministers due to potential budgetary constraints. He requests the Prime Minister to bring this matter back to the Council for further discussion and approval.

Example 2:

Scenario: A Minister has decided to introduce a new bill in Parliament regarding digital privacy laws.

Application of Article 78:

(a) The Prime Minister informs the President about the decision of the Council of Ministers to introduce the digital privacy bill, outlining its key provisions and objectives.

(b) The President, wanting to understand the broader impact, asks for additional information on how the bill will affect existing laws and the digital economy. The Prime Minister provides a detailed analysis and supporting documents.

(c) The President believes that the bill should be reviewed by the entire Council of Ministers to ensure it aligns with the Union's overall digital strategy. He requests the Prime Minister to submit the bill for the Council's consideration before it is introduced in Parliament.

## **PART V: THE UNION**

### **CHAPTER II: PARLIAMENT**

#### **General**

#### **Article 79: Constitution of Parliament.**

There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

#### **Simplified act**

The Union will have a Parliament that includes the President and two groups called the Council of States and the House of the People.

Explanation using Example

Example 1:

Ravi is a citizen of India who wants to understand how the Indian Parliament is structured. He learns that according to Article 79 of the Constitution of India, the Parliament consists of three main components: the President, the Council of States (Rajya Sabha), and the House of the People (Lok Sabha). This means

that for any law to be passed, it must be approved by both houses of Parliament and then receive the President's assent.

Example 2:

Priya is a political science student studying the legislative process in India. She comes across Article 79 of the Constitution of India, which states that the Parliament consists of the President, the Council of States, and the House of the People. She understands that the Council of States (Rajya Sabha) represents the states and union territories, while the House of the People (Lok Sabha) represents the citizens of India. This bicameral structure ensures that both regional and population-based interests are considered in the legislative process.

### **Article 80: Composition of the Council of States.**

#### Council of States

(1) The Council of States shall consist of:

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.

(2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:

Literature, science, art and social service.

(4) The representatives of each State in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.



## Simplified act

### Council of States

(1) The Council of States will have:

- (a) twelve members chosen by the President based on certain rules; and
- (b) up to 238 representatives from the States and Union territories.

(2) The number of seats each State and Union territory gets in the Council of States is decided by the rules in the Fourth Schedule.

(3) The twelve members chosen by the President will be people with special knowledge or experience in areas like:

Literature, science, art, and social service.

(4) The representatives from each State in the Council of States will be elected by the elected members of that State's Legislative Assembly using a voting system called proportional representation with a single transferable vote.

(5) The representatives from the Union territories in the Council of States will be chosen in a way that Parliament decides by law.

### Explanation using Example

#### Example 1:

Scenario: Nomination of Members by the President

Situation: The President of India is tasked with nominating 12 members to the Council of States (Rajya Sabha).

Example: Dr. A.P.J. Abdul Kalam, a renowned scientist, is nominated by the President to the Rajya Sabha due to his significant contributions to science and technology. Similarly, a famous author like Chetan Bhagat could be nominated for his contributions to literature, and a social worker like Medha Patkar could be nominated for her work in social service.

Explanation: This example illustrates how the President can nominate individuals who have made significant contributions in fields such as literature, science, art, and social service to the Rajya Sabha.

#### Example 2:

Scenario: Election of State Representatives

Situation: The Legislative Assembly of Maharashtra is conducting elections to choose representatives for the Rajya Sabha.

Example: Maharashtra has been allocated 19 seats in the Rajya Sabha as per the Fourth Schedule. The elected members of the Maharashtra Legislative Assembly vote to elect these 19 representatives using the system of proportional representation by means of a single transferable vote. Political parties in the assembly nominate their candidates, and based on the votes, representatives are elected to the Rajya Sabha.

Explanation: This example demonstrates the process by which state representatives are elected to the Rajya Sabha by the elected members of the state's Legislative Assembly, ensuring proportional representation.

Example 3:

Scenario: Allocation of Seats to Union Territories

Situation: The Union Territory of Delhi needs to elect its representatives to the Rajya Sabha.

Example: Delhi has been allocated 3 seats in the Rajya Sabha. The election process for these seats is conducted as per the laws prescribed by Parliament. Members of the Legislative Assembly of Delhi vote to elect these representatives.

Explanation: This example shows how Union Territories, like Delhi, elect their representatives to the Rajya Sabha in accordance with the laws set by Parliament.

Example 4:

Scenario: Proportional Representation Voting System

Situation: A legislative assembly election is held in Karnataka to elect Rajya Sabha members.

Example: Karnataka has 12 seats in the Rajya Sabha. During the election, each member of the Karnataka Legislative Assembly casts a vote using a single transferable vote system. This means that each voter ranks the candidates in order of preference. If a candidate achieves the required quota of votes, they are elected. If not, the candidate with the fewest votes is eliminated, and their votes

are transferred to the remaining candidates based on the voters' next preferences.

Explanation: This example illustrates the proportional representation voting system by means of a single transferable vote, ensuring that the elected Rajya Sabha members represent the diverse preferences of the legislative assembly members.

### **Article 81: Composition of the House of the People.**

#### Article 331

(1) Subject to the provisions of article 331, the House of the People shall consist of:

(a) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and

(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1):

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed:

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 2001 census.

## **Simplified act**

### Article 331

(1) According to Article 331, the House of the People (Lok Sabha) will have:

(a) up to 530 members elected directly from different areas in the States, and

(b) up to 20 members representing the Union territories, chosen in a way decided by Parliament.

(2) For part (a) of section (1):

(a) Each State will get a number of seats in the House of the People based on its population, so that the ratio of seats to population is roughly the same for all States; and

(b) Each State will be divided into areas (constituencies) so that the ratio of population to seats is roughly the same across the State:

However, the rule in part (a) of this section does not apply to any State with a population of less than six million.

(3) In this article, "population" means the number of people counted in the most recent census that has been officially published.

Until the figures from the first census after 2026 are published, the term "last preceding census" will mean:

(i) For part (a) of section (2) and its exception, it refers to the 1971 census; and

(ii) For part (b) of section (2), it refers to the 2001 census.

### Explanation using Example

#### Example 1:

Imagine the state of Maharashtra, which has a population of approximately 112 million people according to the latest census. According to Article 81, Maharashtra will be allotted a certain number of seats in the House of the People (Lok Sabha) based on its population. Let's say Maharashtra is allotted 48 seats. These 48 seats will be distributed among various territorial constituencies within Maharashtra in such a way that each constituency has

roughly the same population. This ensures fair representation of the people in the Lok Sabha.

**Example 2:**

Consider the Union Territory of Delhi, which has a population of around 19 million. According to Article 81, Delhi can have a maximum of 20 members representing it in the Lok Sabha. The exact number of seats and the manner in which these representatives are chosen will be determined by a law made by Parliament. For instance, if Parliament decides that Delhi will have 7 seats, these seats will be distributed among different constituencies within Delhi, ensuring that each constituency has a similar population size.

**Example 3:**

Assume the state of Sikkim, which has a population of less than 6 million. According to the proviso in Article 81, the rule that the number of seats should be proportional to the population does not apply to Sikkim. This means that Sikkim will be allotted a fixed number of seats in the Lok Sabha regardless of its population size. For example, Sikkim might be allotted 1 seat in the Lok Sabha, ensuring that it has representation despite its smaller population.

**Example 4:**

Let's take the scenario of the 2024 general elections. The population data used for determining the number of seats for each state will be based on the 1971 census for the purpose of sub-clause (a) of clause (2) and the 2001 census for the purpose of sub-clause (b) of clause (2). This means that even though more recent census data might be available, the allocation of seats will still refer to these older census figures until the relevant figures for the first census taken after 2026 are published.

**Article 82: Readjustment after each census.**

Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust -

- (i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and
- (ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this article.

### **Simplified act**

After each census is completed, the number of seats each state gets in the House of the People (Lok Sabha) and the way each state is divided into voting areas will be adjusted by an authority as decided by Parliament:

This adjustment will not change the current representation in the House of the People until the current House is dissolved.

The adjustment will start from a date specified by the President. Until then, any elections will be based on the old voting areas.

Until the first census after 2026 is published, there is no need to adjust:

- (i) the number of seats each state gets in the House of the People based on the 1971 census; and
- (ii) the division of each state into voting areas based on the 2001 census.

Explanation using Example

Example 1:

Scenario: The 2031 Census has just been completed in India.

Application: After the 2031 Census, the government needs to readjust the allocation of seats in the Lok Sabha (House of the People) and the division of each state into territorial constituencies. Parliament passes a law specifying that the Election Commission of India will be the authority responsible for this readjustment.

Process:

The Election Commission reviews the new population data from the 2031 Census.

Based on the new population figures, the Commission reallocates the number of Lok Sabha seats to each state to ensure proportional representation.

The Commission also redraws the boundaries of the constituencies within each state to reflect population changes.

Outcome: The new allocation and constituency boundaries are finalized, but they will not affect the current Lok Sabha until its term ends. The President issues an order specifying the date from which the new boundaries and seat allocations will take effect. Until then, any elections will be conducted based on the old boundaries and seat allocations.

Example 2:

Scenario: The year is 2027, and the government is preparing for the next general elections.

Application: According to the Constitution, there is no need to readjust the allocation of seats in the Lok Sabha or the division of constituencies based on the 2021 Census figures. The current allocations and boundaries, which are based on the 1971 and 2001 Census data respectively, will remain in effect until the first census after 2026 is published.

Process:

The Election Commission uses the existing constituency boundaries and seat allocations for the upcoming general elections.

Political parties and candidates campaign within these established boundaries.

The elections are conducted, and the new Lok Sabha is formed based on the existing seat allocations and constituency divisions.

Outcome: The elections proceed smoothly without any changes to the constituency boundaries or seat allocations, ensuring stability and continuity in the electoral process until the next census data is available and a new readjustment is made.

### **Article 83: Duration of Houses of Parliament.**

## Article - Council of States and House of the People

(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, 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 House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law 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.

### **Simplified act**

## Article - Council of States and House of the People

(1) The Council of States (Rajya Sabha) will not be dissolved, but about one-third of its members will retire every two years. This process will follow the rules set by Parliament.

(2) The House of the People (Lok Sabha) will last for five years from its first meeting unless it is dissolved earlier. After five years, it will automatically dissolve:

However, if there is an Emergency, Parliament can extend this period by one year at a time, but not more than six months after the Emergency ends.

### Explanation using Example

#### Example 1:

Scenario: Regular Retirement of Members of the Council of States

Situation: Rajesh is a member of the Council of States (Rajya Sabha). He was elected in 2020. According to Article 83(1), the Council of States is a permanent body and is not subject to dissolution. However, one-third of its members retire every two years.



**Application:** In 2022, Rajesh's term is up for retirement as part of the one-third members who need to retire. New elections are held to fill the seats of the retiring members. Rajesh can choose to run for re-election or retire from his position.

**Outcome:** Rajesh decides to run for re-election and wins. He continues to serve as a member of the Council of States for another term.

**Example 2:**

**Scenario:** Dissolution of the House of the People during an Emergency

**Situation:** The House of the People (Lok Sabha) was elected in 2019. According to Article 83(2), the House of the People has a term of five years unless it is dissolved sooner. In 2024, a national emergency is declared due to a severe natural disaster.

**Application:** During the emergency, the Parliament decides to extend the term of the House of the People by one year, as allowed under the proviso of Article 83(2). This extension is done through a law passed by the Parliament.

**Outcome:** The term of the House of the People is extended until 2025. After the emergency is lifted, the term can be extended for another six months if necessary, but no further extensions are allowed beyond this period. The House of the People is dissolved in 2025, and new elections are held.

**Example 3:**

**Scenario:** Regular Dissolution of the House of the People

**Situation:** The House of the People (Lok Sabha) was elected in 2014. According to Article 83(2), the House of the People has a term of five years.

**Application:** In 2019, the five-year term of the House of the People comes to an end. As per the Constitution, the House is automatically dissolved at the end of this period.

**Outcome:** The House of the People is dissolved in 2019, and general elections are held to elect new members. The newly elected House of the People meets for the first time, starting a new five-year term.

**Example 4:**

**Scenario:** Early Dissolution of the House of the People

**Situation:** The House of the People (Lok Sabha) was elected in 2018. Due to political instability and the inability to form a stable government, the Prime Minister advises the President to dissolve the House in 2020.

**Application:** The President, acting on the advice of the Prime Minister, dissolves the House of the People before the completion of its five-year term.

**Outcome:** The House of the People is dissolved in 2020, and new elections are held to elect a new House. The newly elected House of the People meets for the first time, starting a new five-year term.

### **Article 84: Qualification for membership of Parliament.**

#### Qualifications for Membership of Parliament

A person shall not be qualified to be chosen to fill a seat in Parliament 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 Third Schedule;
- (b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, 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.

### **Simplified act**

#### Qualifications for Membership of Parliament

A person can only be chosen to be a member of Parliament if they:

- (a) are a citizen of India, and take an oath or make a promise in front of a person authorized by the Election Commission, following the form given in the Third Schedule;
- (b) are at least thirty years old for a seat in the Council of States, and at least twenty-five years old for a seat in the House of the People; and
- (c) have any other qualifications that may be required by laws made by Parliament.

## Explanation using Example

### Example 1:

Rajesh, a 32-year-old Indian citizen, wants to run for a seat in the Lok Sabha (House of the People). He checks the qualifications under Article 84 of the Constitution of India. Since he is over 25 years old, a citizen of India, and willing to take the required oath, he meets the basic qualifications. Rajesh then ensures he meets any additional qualifications prescribed by law, such as not having any criminal convictions that disqualify him from running for office. He submits his nomination and takes the oath before an authorized person from the Election Commission, thereby becoming eligible to contest in the elections.

### Example 2:

Priya, a 28-year-old Indian citizen, is interested in becoming a member of the Rajya Sabha (Council of States). She reviews Article 84 and realizes that she does not meet the age requirement of 30 years for the Rajya Sabha. Therefore, she cannot contest for a seat in the Rajya Sabha until she turns 30. However, since she is over 25 years old, she can consider running for a seat in the Lok Sabha instead. Priya decides to wait until she turns 30 to pursue her ambition of joining the Rajya Sabha and in the meantime, she prepares by gaining more experience and understanding the legislative process.

### Example 3:

Anil, a 40-year-old Indian citizen, has a criminal record for a serious offense. He wants to run for a seat in the Lok Sabha. While he meets the age and citizenship requirements under Article 84, he checks the additional qualifications prescribed by law. According to the Representation of the People Act, 1951, individuals convicted of certain offenses are disqualified from contesting elections. Anil finds out that his conviction disqualifies him from running for Parliament. Despite meeting the basic qualifications in Article 84, the additional legal disqualifications prevent him from contesting the elections.

### Example 4:

Sunita, a 35-year-old Indian citizen, is a well-known social worker and wants to contribute to the nation by becoming a member of the Rajya Sabha. She meets the age and citizenship requirements under Article 84. She takes the required oath before an authorized person from the Election Commission. Additionally, she ensures that she meets all other qualifications prescribed by law, such as not holding an office of profit under the government, which could

disqualify her. Sunita successfully files her nomination and campaigns for a seat in the Rajya Sabha.

### **Article 85: Sessions of Parliament, prorogation and dissolution.**

#### Parliamentary Sessions

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time:

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.

#### **Simplified act**

#### Parliamentary Sessions

(1) The President will call each House of Parliament to meet at different times and places as he sees fit. However, there cannot be more than six months between the last meeting of one session and the first meeting of the next session.

(2) The President has the power to:

(a) end a session of either or both Houses of Parliament;

(b) dissolve the House of the People (which means to end its current term and call for new elections).

#### Explanation using Example

##### Example 1:

The Lok Sabha (House of the People) had its last session on January 15th. According to Article 85, the President must ensure that the next session starts within six months. Therefore, the President schedules the next session to begin on June 10th. This ensures compliance with the requirement that no more than six months pass between sessions.

##### Example 2:

The Parliament is in session, and there is a heated debate on a controversial bill. The President, considering the political climate and the need for a cooling-off period, decides to prorogue the session. This means that the current session is ended without dissolving the House, and the members will reconvene at a later date as decided by the President.

Example 3:

The government has completed its term, and general elections are due. The President, exercising his power under Article 85, dissolves the Lok Sabha. This means that all members of the Lok Sabha cease to be members, and new elections are held to elect the next set of representatives.

Example 4:

During a national emergency, the President decides that it is crucial for the Parliament to meet immediately to discuss and pass necessary legislation. The President summons both Houses of Parliament to meet at a specific date and time, ensuring that the legislative process can continue without delay.

Example 5:

The Rajya Sabha (Council of States) had its last sitting on March 1st. To comply with Article 85, the President ensures that the next session of the Rajya Sabha is scheduled to start on August 25th, thus maintaining the constitutional requirement of not having more than six months between sessions.

### **Article 86: Right of President to address and send messages to Houses.**

Address by the President

- (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.
- (2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

### **Simplified act**

Address by the President

(1) The President can speak to either the House of Parliament or both Houses together, and can ask the members to be present for this.

(2) The President can send messages to either House of Parliament about a Bill that is being discussed or about other matters. The House that gets the message should quickly consider what the President has asked them to think about.

### Explanation using Example

#### Example 1:

Scenario: The President addresses both Houses of Parliament regarding a national emergency.

Details: During a severe national crisis, such as a natural disaster or a significant security threat, the President of India decides to address both the Lok Sabha (House of the People) and the Rajya Sabha (Council of States) together. The President requires the attendance of all members of both Houses to discuss the situation, outline the government's response, and seek the cooperation of all political parties to ensure a unified and effective approach to the crisis.

Outcome: All members of Parliament attend the session, listen to the President's address, and engage in a constructive debate on the measures proposed. This helps in fostering a sense of national unity and urgency in dealing with the crisis.

#### Example 2:

Scenario: The President sends a message to the Lok Sabha regarding a pending Bill on healthcare reform.

Details: A Bill aimed at reforming the healthcare system is currently under consideration in the Lok Sabha. The President, after consulting with experts and advisors, believes that certain amendments are necessary to ensure the Bill's effectiveness and fairness. The President sends a detailed message to the Lok Sabha, outlining the suggested changes and the reasons behind them.

Outcome: The Lok Sabha, upon receiving the President's message, prioritizes the discussion of the suggested amendments. The members debate the proposed changes, and after thorough consideration, they incorporate the

President's recommendations into the Bill. This leads to the passage of a more robust and comprehensive healthcare reform law.

#### Example 3:

Scenario: The President addresses the Rajya Sabha on the importance of passing a new environmental protection law.

Details: The President is concerned about the increasing environmental degradation and the need for stronger legal frameworks to protect the environment. The President decides to address the Rajya Sabha to emphasize the urgency of passing a new environmental protection law that is currently pending in the House. The President highlights the long-term benefits of the law for the country's ecological balance and public health.

Outcome: The Rajya Sabha members, influenced by the President's address, expedite the discussion and approval process of the environmental protection law. The law is passed with broad support, leading to stricter regulations and better enforcement mechanisms to safeguard the environment.

#### Example 4:

Scenario: The President sends a message to both Houses regarding a proposed amendment to the Constitution.

Details: A proposed amendment to the Constitution, which aims to enhance the rights of marginalized communities, is under consideration in both Houses of Parliament. The President, recognizing the significance of the amendment, sends a message to both the Lok Sabha and the Rajya Sabha, urging them to consider the amendment with the utmost seriousness and to ensure that the rights of these communities are adequately protected.

Outcome: Both Houses of Parliament take the President's message seriously and engage in detailed discussions on the proposed amendment. The members consider various perspectives and make necessary adjustments to the amendment. Eventually, the amendment is passed with a strong consensus, leading to greater protection and empowerment of marginalized communities in India.

### **Article 87: Special address by the President.**

(1) At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year

the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address \* \* \*.

### **Simplified act**

(1) At the start of the first meeting after each general election for the House of the People, and at the start of the first meeting of each year, the President will speak to both Houses of Parliament together and explain why they have been called to meet.

(2) Rules will be made to ensure that there is enough time to talk about the issues mentioned in the President's speech.

Explanation using Example

Example 1:

After the general elections in India, a new government is formed. The first session of the newly elected House of the People (Lok Sabha) is scheduled. According to Article 87 of the Constitution of India, the President of India, Ram Nath Kovind, addresses both the Lok Sabha and the Rajya Sabha (Council of States) in a joint session. In his speech, he outlines the government's agenda, key policies, and the reasons for summoning the Parliament. This address sets the tone for the legislative agenda for the upcoming year.

Example 2:

At the beginning of a new year, the President of India, Droupadi Murmu, addresses a joint session of both Houses of Parliament. During this address, she highlights the government's achievements over the past year, outlines the challenges ahead, and presents the legislative priorities for the coming year. Following the President's address, the members of both Houses discuss the matters mentioned in the speech. The rules of procedure for both the Lok Sabha and the Rajya Sabha allocate specific time slots for these discussions, ensuring that all important issues raised by the President are thoroughly debated.

**Article 88: Rights of Ministers and Attorney-General as respects Houses.**



Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

### **Simplified act**

Every Minister and the Attorney-General of India can speak and participate in the meetings and discussions of either House of Parliament, any joint meetings of both Houses, and any committee of Parliament they are a member of. However, they do not have the right to vote just because of this rule.

Explanation using Example

Example 1:

The Minister of Health is invited to a session of the Lok Sabha (House of the People) to discuss a new healthcare bill. During the session, the Minister actively participates in the debate, providing insights, answering questions, and clarifying the government's stance on various provisions of the bill. However, when it comes time to vote on the bill, the Minister does not cast a vote, as per Article 88 of the Constitution of India.

Example 2:

The Attorney-General of India is called to a joint sitting of both the Lok Sabha and the Rajya Sabha (Council of States) to provide legal advice on a complex constitutional amendment. The Attorney-General presents a detailed legal analysis, engages in discussions with members of both Houses, and addresses their concerns. Despite playing a crucial role in the proceedings, the Attorney-General does not participate in the voting process, adhering to the stipulations of Article 88.

## **OFFICERS OF PARLIAMENT**

### **Article 89: The Chairman and Deputy Chairman of the Council of States.**

(1) The Vice-President of India shall be ex officio Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

## Simplified act

(1) The Vice-President of India will automatically be the Chairman of the Council of States.

(2) The Council of States must choose one of its members to be the Deputy Chairman as soon as possible. Whenever the position of Deputy Chairman is empty, the Council must choose another member to fill that role.

### Explanation using Example

#### Example 1:

Scenario: The Vice-President of India, Mr. Rajesh Kumar, is automatically the Chairman of the Council of States (Rajya Sabha) due to his position.

Explanation: According to Article 89(1) of the Constitution of India, the Vice-President of India serves as the ex officio Chairman of the Council of States. This means that Mr. Rajesh Kumar, by virtue of being the Vice-President, is also the Chairman of the Rajya Sabha without needing any additional election or appointment.

#### Example 2:

Scenario: The Deputy Chairman of the Rajya Sabha, Ms. Priya Sharma, resigns from her position. The Council of States must now elect a new Deputy Chairman.

Explanation: As per Article 89(2) of the Constitution of India, when the office of the Deputy Chairman becomes vacant, the Council of States (Rajya Sabha) must elect a new Deputy Chairman from among its members. In this case, following Ms. Priya Sharma's resignation, the members of the Rajya Sabha will hold an election to choose another member to fill the position of Deputy Chairman.

### **Article 90: Vacation and resignation of, and removal from, the office of Deputy Chairman.**

A member holding office as Deputy Chairman of the Council of States -

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

### **Simplified act**

- A member holding the position of Deputy Chairman of the Council of States -

(a) will leave their position if they are no longer a member of the Council;

(b) can resign from their position at any time by writing a letter to the Chairman; and

(c) can be removed from their position if the Council votes to do so with a majority of all current members:

However, for clause (c), a notice of at least fourteen days must be given before the resolution to remove the Deputy Chairman can be proposed.

Explanation using Example

Example 1:

Scenario: Resignation of the Deputy Chairman

Mr. Rajesh Kumar is the Deputy Chairman of the Council of States (Rajya Sabha). He decides to resign from his position due to personal reasons. According to Article 90(b) of the Constitution of India, he can resign by writing a resignation letter addressed to the Chairman of the Council of States. Mr. Kumar writes a formal resignation letter and submits it to the Chairman. Upon receipt of the letter, the Chairman acknowledges the resignation, and Mr. Kumar's resignation becomes effective immediately.

Example 2:

Scenario: Removal of the Deputy Chairman

Ms. Anjali Sharma is the Deputy Chairman of the Council of States. Some members of the Council are dissatisfied with her performance and decide to remove her from office. According to Article 90(c), she can be removed by a resolution passed by a majority of all the members of the Council. The members give a notice of their intention to move the resolution at least fourteen

days in advance. After the notice period, the resolution is put to vote in the Council. A majority of the members vote in favor of the resolution, and Ms. Sharma is removed from her position as Deputy Chairman.

Example 3:

Scenario: Vacation of Office due to Ceasing Membership

Mr. Arvind Patel is the Deputy Chairman of the Council of States. During his tenure, he loses his seat in the Council of States due to the expiration of his term as a member. According to Article 90(a), since he is no longer a member of the Council, he automatically vacates his office as Deputy Chairman. The Council then proceeds to elect a new Deputy Chairman to fill the vacancy.

**Article 91: Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.**

(1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

**Simplified act**

(1) If the Chairman's position is empty, or if the Vice-President is temporarily taking over the President's duties, the Deputy Chairman will take over the Chairman's duties. If there is no Deputy Chairman, the President will choose a member of the Council of States to do the job.

(2) If the Chairman is not present at a meeting of the Council of States, the Deputy Chairman will take over. If the Deputy Chairman is also not there, the person chosen by the Council's rules will take over. If no such person is available, the Council will decide who will act as Chairman.

Explanation using Example

Example 1:

Scenario: The Vice-President of India, who is also the Chairman of the Rajya Sabha (Council of States), is elected as the President of India.

Application of Article 91:

Since the Vice-President is now acting as the President, the office of the Chairman of the Rajya Sabha becomes vacant.

According to Article 91(1), the Deputy Chairman of the Rajya Sabha will perform the duties of the Chairman.

If the Deputy Chairman's position is also vacant, the President of India will appoint a member of the Rajya Sabha to perform the duties of the Chairman.

Example: Mr. A, the Vice-President, is elected as the President of India. The Deputy Chairman, Ms. B, will now perform the duties of the Chairman of the Rajya Sabha. If Ms. B's position is also vacant, the President appoints Mr. C, a senior member of the Rajya Sabha, to act as the Chairman.

Example 2:

Scenario: The Chairman of the Rajya Sabha is on a foreign visit and cannot attend a session of the Rajya Sabha.

Application of Article 91:

During the absence of the Chairman from any sitting of the Rajya Sabha, the Deputy Chairman will act as the Chairman as per Article 91(2).

If the Deputy Chairman is also absent, the person determined by the rules of procedure of the Rajya Sabha will act as the Chairman.

If no such person is present, the Council of States will determine another person to act as the Chairman.

Example: The Chairman, Mr. D, is on a foreign visit. The Deputy Chairman, Ms. E, will act as the Chairman during his absence. If Ms. E is also absent, the rules of procedure designate Mr. F to act as the Chairman. If Mr. F is not present, the Rajya Sabha members decide that Mr. G will act as the Chairman for that session.

**Article 92: The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.**

Removal of Vice-President and Deputy Chairman

(1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or, as the case may be, the Deputy Chairman, is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

### **Simplified act**

#### Removal of Vice-President and Deputy Chairman

(1) When the Council of States is discussing whether to remove the Vice-President or the Deputy Chairman from their position, the Vice-President or Deputy Chairman cannot lead the meeting, even if they are present. Instead, the rules that apply when they are absent will be followed.

(2) The Chairman can speak and participate in the discussions when the Council of States is considering the removal of the Vice-President. However, the Chairman is not allowed to vote on the removal or any other matter during these discussions.

#### Explanation using Example

##### Example 1:

##### Scenario: Removal of the Vice-President

The Rajya Sabha (Council of States) is holding a session to discuss a resolution for the removal of the Vice-President of India. According to Article 92, the Vice-President, who is also the Chairman of the Rajya Sabha, cannot preside over this session. Instead, another member, typically the Deputy Chairman or another designated member, will preside over the session. The Vice-President, although present, will not sit in the Chairman's seat. He can participate in the debate and express his views but is not allowed to vote on the resolution or any other matter during this session.

Example: Suppose there are allegations of misconduct against the Vice-President, and a resolution for his removal is introduced in the Rajya Sabha. During the debate, the Vice-President can defend himself and present his case, but he cannot preside over the session or vote on the resolution. The Deputy Chairman or another senior member will take over the role of presiding officer for this session.

Example 2:

Scenario: Removal of the Deputy Chairman

The Rajya Sabha is considering a resolution to remove the Deputy Chairman from office. According to Article 92, the Deputy Chairman cannot preside over the session where his removal is being discussed. Instead, another member, typically a senior member of the Rajya Sabha, will preside over the session. The Deputy Chairman can be present and participate in the debate but cannot vote on the resolution or any other matter during this session.

Example: Imagine there are accusations of partiality against the Deputy Chairman, and a resolution for his removal is brought before the Rajya Sabha. During the session, the Deputy Chairman can present his defense and participate in the discussion, but he cannot preside over the session or cast a vote. Another senior member will take over the role of presiding officer for this session.

### **Article 93: The Speaker and Deputy Speaker of the House of the People.**

The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

### **Simplified act**

The House of the People must quickly choose two members to be the Speaker and Deputy Speaker.

If the position of Speaker or Deputy Speaker becomes empty, the House must choose another member to fill that position.

Explanation using Example

Example 1:

Scenario: After a general election, the newly elected members of the Lok Sabha (House of the People) convene for their first session.

Application: According to Article 93 of the Constitution of India, the first order of business for the Lok Sabha is to elect a Speaker and a Deputy Speaker from among its members. This ensures that the House has leadership to conduct its proceedings.

Example: The members of the Lok Sabha vote and elect Mr. A as the Speaker and Ms. B as the Deputy Speaker. Mr. A and Ms. B will now preside over the sessions of the Lok Sabha, ensuring that debates and discussions are conducted in an orderly manner.

Example 2:

Scenario: The current Speaker of the Lok Sabha, Mr. A, resigns from his position due to personal reasons.

Application: As per Article 93, when the office of the Speaker becomes vacant, the Lok Sabha must elect a new Speaker as soon as possible to fill the vacancy.

Example: Following Mr. A's resignation, the members of the Lok Sabha hold an election and choose Mr. C as the new Speaker. Mr. C will now take over the responsibilities of presiding over the sessions of the Lok Sabha, ensuring that legislative business continues smoothly.

#### **Article 94: Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.**

A member holding office as Speaker or Deputy Speaker of the House of the People -

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:



Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

### **Simplified act**

A person who is the Speaker or Deputy Speaker of the House of the People -

(a) will leave their position if they stop being a member of the House of the People;

(b) can resign from their position at any time by writing a resignation letter. If the person resigning is the Speaker, they should address the letter to the Deputy Speaker. If the person resigning is the Deputy Speaker, they should address the letter to the Speaker; and

(c) can be removed from their position if the House of the People passes a resolution with a majority vote of all its current members:

However, a resolution to remove them cannot be proposed unless at least fourteen days' notice has been given about the intention to propose the resolution.

Additionally, if the House of the People is dissolved, the Speaker will not leave their position until just before the first meeting of the new House of the People after the dissolution.

Explanation using Example

Example 1:

Scenario: Resignation of the Speaker

Mr. Sharma is the Speaker of the Lok Sabha (House of the People). He decides to resign from his position due to personal reasons. According to Article 94(b) of the Constitution of India, Mr. Sharma writes a resignation letter addressed to the Deputy Speaker. In his letter, he clearly states his intention to resign from the office of the Speaker. Once the Deputy Speaker receives and acknowledges the resignation letter, Mr. Sharma's resignation becomes effective, and he vacates his office.

## Example 2:

### Scenario: Removal of the Deputy Speaker

Ms. Verma is the Deputy Speaker of the Lok Sabha. Some members of the Lok Sabha are dissatisfied with her performance and decide to remove her from office. According to Article 94(c) of the Constitution of India, a resolution for her removal is proposed. The members ensure that at least fourteen days' notice is given before moving the resolution. On the day of the vote, a majority of all the then members of the Lok Sabha vote in favor of the resolution. As a result, Ms. Verma is removed from her office as Deputy Speaker.

## Example 3:

### Scenario: Speaker vacating office upon ceasing to be a member of the House

Mr. Patel is the Speaker of the Lok Sabha. During the general elections, he loses his seat and ceases to be a member of the Lok Sabha. According to Article 94(a) of the Constitution of India, since Mr. Patel is no longer a member of the House of the People, he automatically vacates his office as Speaker.

## Example 4:

### Scenario: Speaker continuing in office after dissolution of the House

The Lok Sabha is dissolved for general elections. According to Article 94, the Speaker, Mr. Rao, does not vacate his office immediately. Instead, he continues to hold the office until the first meeting of the newly elected Lok Sabha. This ensures continuity and stability in the functioning of the Parliament during the transition period.

### **Article 95: Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.**

#### Speaker and Deputy Speaker Duties

- (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.
- (2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is

present, such other person as may be determined by the House, shall act as Speaker.

## **Simplified act**

### Speaker and Deputy Speaker Duties

(1) If there is no Speaker, the Deputy Speaker will take over the Speaker's duties. If there is no Deputy Speaker either, the President will choose a member of the House of the People to do the job.

(2) If the Speaker is not present at a House of the People meeting, the Deputy Speaker will take over. If the Deputy Speaker is also not there, the person chosen by the House's rules will act as Speaker. If no such person is available, the House will decide who will act as Speaker.

### Explanation using Example

#### Example 1:

Scenario: The Speaker of the Lok Sabha (House of the People) resigns from their position, and the office of the Speaker is now vacant.

Application: According to Article 95(1), the Deputy Speaker will take over the duties of the Speaker. If the Deputy Speaker's position is also vacant, the President of India will appoint a member of the Lok Sabha to perform the duties of the Speaker until a new Speaker is elected.

Example: The Speaker of the Lok Sabha, Mr. Sharma, resigns due to health issues. The Deputy Speaker, Ms. Verma, steps in to perform the duties of the Speaker. However, if Ms. Verma is also unavailable, the President of India appoints Mr. Singh, a senior member of the Lok Sabha, to act as the Speaker until a new Speaker is elected.

#### Example 2:

Scenario: The Speaker of the Lok Sabha is on an official visit abroad and is unable to attend a session of the House.

Application: According to Article 95(2), during the absence of the Speaker, the Deputy Speaker will act as the Speaker. If the Deputy Speaker is also absent, the person determined by the rules of procedure of the House will act as the Speaker. If no such person is present, the House will determine another person to act as the Speaker.

Example: The Speaker of the Lok Sabha, Mr. Sharma, is on an official visit to the United States. The Deputy Speaker, Ms. Verma, presides over the session in his absence. If Ms. Verma is also unavailable due to personal reasons, the rules of procedure of the Lok Sabha designate Mr. Patel, another senior member, to act as the Speaker. If Mr. Patel is also unavailable, the members of the Lok Sabha vote and decide that Ms. Rao will act as the Speaker for that session.

**Article 96: The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.**

(1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

**Simplified act**

(1) If there is a meeting in the House of the People to discuss removing the Speaker or the Deputy Speaker from their position, the Speaker or Deputy Speaker cannot lead the meeting, even if they are there. Instead, the rules that apply when the Speaker or Deputy Speaker is not present will be followed.

(2) The Speaker has the right to speak and participate in the discussions in the House of the People when there is a proposal to remove him from his position. He can also vote on this proposal or any other matter during these discussions, but he can only vote once and cannot vote again if there is a tie.

Explanation using Example

Example 1:

Scenario: A resolution has been introduced in the Lok Sabha (House of the People) to remove the current Speaker from office due to allegations of misconduct.

Application of Article 96:

During the session where this resolution is being discussed, the Speaker, even if present, cannot preside over the meeting.

Instead, the Deputy Speaker or another member designated by the House will preside over the session.

The Speaker, however, retains the right to participate in the debate and can vote on the resolution in the first instance but cannot cast a deciding vote in case of a tie.

Outcome:

The Speaker steps down from the chair for the duration of the discussion and vote on the resolution.

The Deputy Speaker takes over the proceedings.

The Speaker actively participates in the debate, defending against the allegations.

When the vote is called, the Speaker votes along with other members but does not have the authority to break a tie.

Example 2:

Scenario: A resolution has been introduced in the Lok Sabha to remove the Deputy Speaker from office due to allegations of partiality.

Application of Article 96:

During the session where this resolution is being discussed, the Deputy Speaker, even if present, cannot preside over the meeting.

Instead, the Speaker or another member designated by the House will preside over the session.

The Deputy Speaker retains the right to participate in the debate and can vote on the resolution in the first instance but cannot cast a deciding vote in case of a tie.

Outcome:

The Deputy Speaker steps down from the chair for the duration of the discussion and vote on the resolution.

The Speaker takes over the proceedings.

The Deputy Speaker actively participates in the debate, defending against the allegations.

When the vote is called, the Deputy Speaker votes along with other members but does not have the authority to break a tie.

**Article 97: Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.**

There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

**Simplified act**

The Chairman and Deputy Chairman of the Council of States, and the Speaker and Deputy Speaker of the House of the People, will receive salaries and allowances. These amounts will be decided by Parliament through a law. Until such a law is made, they will receive the salaries and allowances listed in the Second Schedule.

Explanation using Example

Example 1:

Mr. Sharma is elected as the Speaker of the Lok Sabha (House of the People). According to Article 97 of the Constitution of India, his salary and allowances are determined by a law passed by Parliament. Until such a law is enacted, Mr. Sharma receives the salary and allowances specified in the Second Schedule of the Constitution. This ensures that Mr. Sharma is compensated for his role without any delay or ambiguity.

Example 2:

Ms. Rao is appointed as the Deputy Chairman of the Rajya Sabha (Council of States). Parliament has not yet passed a specific law detailing the salary and allowances for this position. Therefore, Ms. Rao receives the salary and allowances as outlined in the Second Schedule of the Constitution. This provision ensures that Ms. Rao is fairly compensated for her duties until Parliament decides otherwise.

### **Article 98: Secretariat of Parliament.**

(1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

### **Simplified act**

(1) Each House of Parliament will have its own separate staff:

However, this does not stop the creation of job positions that are shared by both Houses of Parliament.

(2) Parliament can make laws about how people are hired and the working conditions for the staff of either House of Parliament.

(3) Until Parliament makes such laws, the President can, after talking with the Speaker of the House of the People or the Chairman of the Council of States, make rules about hiring and working conditions for the staff of either House. These rules will apply until Parliament makes its own laws on the matter.

Explanation using Example

Example 1:

Scenario: Recruitment of Secretarial Staff for Lok Sabha

Situation: The Lok Sabha (House of the People) needs to hire new secretarial staff to manage its increasing workload.

Application of Article 98:

Separate Secretarial Staff: The Lok Sabha has its own secretarial staff distinct from the Rajya Sabha (Council of States).

Common Posts: However, if there is a need for a specific role that can serve both Houses, such as a specialized legal advisor, a common post can be created.

Regulation by Law: Parliament passes a law outlining the recruitment process and conditions of service for the new secretarial staff.

Interim Rules by President: Until the new law is enacted, the President, after consulting with the Speaker of the Lok Sabha, issues temporary rules for recruitment and service conditions.

Outcome: The Lok Sabha successfully recruits new secretarial staff following the guidelines set by the President, and later, the recruitment process is governed by the new law passed by Parliament.

Example 2:

Scenario: Common Post Creation for IT Support

Situation: Both the Lok Sabha and Rajya Sabha require advanced IT support to manage digital records and communications.

Application of Article 98:

Separate Secretarial Staff: Each House has its own IT support team.

Common Posts: Recognizing the need for a unified IT strategy, Parliament decides to create a common post for a Chief IT Officer who will oversee IT operations for both Houses.

Regulation by Law: Parliament enacts a law detailing the recruitment process and service conditions for the Chief IT Officer and other common IT support roles.



Interim Rules by President: Before the law is passed, the President, in consultation with the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha, establishes temporary rules for these common IT roles.

Outcome: The Chief IT Officer is appointed under the interim rules, and later, the position and its conditions are formalized through the new law passed by Parliament.

## **Conduct of Business**

### **Article 99: Oath or affirmation by members.**

Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

### **Simplified act**

Before a member of Parliament can take their seat, they must take an oath or make a promise.

This oath or promise must be made in front of the President or someone the President has chosen.

The exact words for the oath or promise are written in the Third Schedule.

Explanation using Example

Example 1:

Rajesh has been elected as a Member of Parliament (MP) in the Lok Sabha (House of the People). Before he can officially take his seat and participate in parliamentary proceedings, Rajesh must take an oath or make an affirmation. He does this in a formal ceremony where he stands before the President of India or an appointed representative. Rajesh recites the oath as prescribed in the Third Schedule of the Constitution of India, pledging to uphold the Constitution and perform his duties faithfully. Only after completing this process is Rajesh allowed to take his seat in the Lok Sabha and begin his duties as an MP.

Example 2:

Anita has been elected as a Member of Parliament (MP) in the Rajya Sabha (Council of States). Before she can start her role as an MP, she must take an oath or make an affirmation. The President of India has appointed the Vice President to administer the oath. In a formal session, Anita stands before the Vice President and recites the oath as outlined in the Third Schedule of the Constitution of India. She promises to bear true faith and allegiance to the Constitution of India and to faithfully discharge her duties. After taking the oath, Anita is officially recognized as a member of the Rajya Sabha and can participate in its proceedings.

**Article 100: Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.**

(1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker. The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

**Simplified act**

(1) Unless stated otherwise in this Constitution, any decision made during a meeting of either House or a joint meeting of both Houses will be decided by a majority vote of the members who are present and voting. The Speaker or the person acting as Chairman or Speaker will not vote initially but will have a tie-breaking vote if there is an equal number of votes.

(2) Either House of Parliament can continue to function even if there are vacancies among its members. Any decisions or actions taken in Parliament

will still be valid even if it is later found out that someone who was not supposed to participate did so.

(3) Until Parliament decides otherwise by law, a meeting of either House of Parliament needs at least one-tenth of its total members to be present to proceed.

(4) If at any time during a meeting there are not enough members present to meet the quorum, the Chairman or Speaker, or the person acting in that role, must either adjourn the meeting or pause it until enough members are present.

Explanation using Example

Example 1:

Scenario: Voting on a New Education Bill in the Lok Sabha

The Lok Sabha is debating a new Education Bill. There are 545 members in the Lok Sabha, but on the day of the vote, only 400 members are present.

Majority Vote: According to Article 100(1), the bill will be passed if a majority of the 400 members present and voting are in favor. If 201 members vote in favor and 199 vote against, the bill passes.

Speaker's Role: The Speaker of the Lok Sabha does not vote initially. However, if the votes are tied at 200 for and 200 against, the Speaker will cast the deciding vote.

Example 2:

Scenario: Discovery of an Ineligible Member in the Rajya Sabha

During a session of the Rajya Sabha, a bill is passed. Later, it is discovered that one of the members who participated in the voting was not eligible to be a member of the Rajya Sabha.

Validity of Proceedings: According to Article 100(2), the proceedings and the vote on the bill remain valid despite the participation of the ineligible member. The Rajya Sabha can continue to function and make decisions even if there are vacancies or ineligible members.

Example 3:

Scenario: Quorum Requirement in the Lok Sabha

A session of the Lok Sabha is scheduled, but only 50 members are present at the start of the meeting.

Quorum Check: According to Article 100(3), the quorum for the Lok Sabha is one-tenth of its total membership, which is 55 members (one-tenth of 545).

Action by Speaker: As there are only 50 members present, the Speaker must either adjourn the House or suspend the meeting until at least 55 members are present, as per Article 100(4).

Example 4:

Scenario: Joint Sitting of Parliament to Resolve a Deadlock

A bill has been passed by the Lok Sabha but rejected by the Rajya Sabha. A joint sitting of both Houses is called to resolve the deadlock.

Majority Vote: During the joint sitting, the bill will be passed if a majority of the members present and voting from both Houses vote in favor, excluding the Speaker and the Chairman.

Casting Vote: If the votes are tied, the Speaker of the Lok Sabha, who presides over the joint sitting, will cast the deciding vote.

### **Disqualifications of Members**

#### **Article 101: Vacation of seats.**

(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State \* \* \*, and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament -

(a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2) of article 102, or

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant:

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

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House 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 House is prorogued or is adjourned for more than four consecutive days.

### **Simplified act**

(1) No one can be a member of both the Houses of Parliament at the same time. If someone is chosen as a member of both Houses, there will be a law to make them leave one of the seats.

(2) No one can be a member of both Parliament and a State Legislature at the same time. If someone is chosen for both, they must leave their seat in Parliament after a certain period set by the President, unless they resign from the State Legislature first.

(3) If a member of either House of Parliament:

(a) becomes disqualified as mentioned in Article 102(1) or 102(2), or

(b) resigns by writing to the Chairman or Speaker and the resignation is accepted, their seat will become vacant:

However, if the Chairman or Speaker believes the resignation is not genuine or voluntary after an inquiry, they will not accept it.

(4) If a member of either House of Parliament is absent from all meetings for sixty days without permission, the House can declare their seat vacant:

However, the sixty days do not include any period when the House is on a break or adjourned for more than four days in a row.

## Explanation using Example

### Example 1:

Rajesh is elected as a Member of Parliament (MP) in the Lok Sabha (House of the People) and also gets elected as a Member of Parliament in the Rajya Sabha (Council of States). According to Article 101(1) of the Constitution of India, Rajesh cannot hold seats in both Houses simultaneously. He must vacate one of the seats. Parliament has laws in place that require Rajesh to choose which seat he will vacate. If he does not make a choice, the law will automatically vacate one of the seats for him.

### Example 2:

Sunita is elected as an MP in the Lok Sabha and also as a Member of the Legislative Assembly (MLA) in her home state of Maharashtra. According to Article 101(2), she cannot hold both positions at the same time. If she does not resign from her position as an MLA within the period specified by the President's rules, her seat in the Lok Sabha will automatically become vacant.

### Example 3:

Vikram, an MP in the Rajya Sabha, is found guilty of a crime and sentenced to imprisonment, which disqualifies him under Article 102(1). According to Article 101(3)(a), Vikram's seat in the Rajya Sabha will become vacant due to this disqualification.

### Example 4:

Priya, an MP in the Lok Sabha, decides to resign from her position. She writes a resignation letter addressed to the Speaker of the Lok Sabha. According to Article 101(3)(b), her seat will become vacant once the Speaker accepts her resignation. However, if the Speaker believes that Priya's resignation is not voluntary or genuine, he may conduct an inquiry and refuse to accept the resignation.

### Example 5:

Amit, an MP in the Rajya Sabha, has been absent from all meetings of the House for 70 days without permission. According to Article 101(4), the Rajya Sabha may declare Amit's seat vacant due to his prolonged absence. However, the 70-day period does not include any time when the House was prorogued or adjourned for more than four consecutive days.

## **Article 102: Disqualifications for membership.**

### Disqualification for Membership of Parliament

(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament:

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament.

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

(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.

### **Simplified act**

### Disqualification for Membership of Parliament

(1) A person cannot be chosen as, or be, a member of either House of Parliament if:

(a) They hold a job that earns money from the Government of India or any State Government, unless the Parliament has made a law saying that this particular job does not disqualify them.

(b) They have been declared by a court to be mentally unstable.

(c) They are bankrupt and have not yet paid off their debts.

(d) They are not an Indian citizen, or they have willingly become a citizen of another country, or they show loyalty to another country.

(e) They are disqualified by any law made by Parliament.

Explanation: For this rule, a person is not considered to hold a job that earns money from the Government of India or any State Government just because they are a Minister for the Union or for a State.

(2) A person cannot be a member of either House of Parliament if they are disqualified under the Tenth Schedule.

Explanation using Example

Example 1:

Rajesh is a successful businessman and decides to run for a seat in the Lok Sabha (House of the People). However, Rajesh also holds a position as the Chairman of a government-owned corporation. According to Article 102(1)(a), Rajesh is disqualified from being chosen as a member of Parliament because he holds an office of profit under the Government of India. Unless the Parliament declares by law that his specific office does not disqualify its holder, Rajesh cannot contest the election.

Example 2:

Meena is a well-known social worker and wishes to contest for a seat in the Rajya Sabha (Council of States). However, Meena has been declared of unsound mind by a competent court due to a severe mental health condition. According to Article 102(1)(b), Meena is disqualified from being chosen as a member of Parliament because she is of unsound mind and has been declared so by a competent court.

Example 3:

Vikram, a citizen of India, has recently acquired citizenship of Canada. He decides to run for a seat in the Lok Sabha. According to Article 102(1)(d), Vikram is disqualified from being chosen as a member of Parliament because he has voluntarily acquired the citizenship of a foreign State.

Example 4:

Anita is a member of the Lok Sabha. She has been declared an undischarged insolvent by a court due to her inability to pay off her debts. According to Article 102(1)(c), Anita is disqualified from continuing as a member of Parliament because she is an undischarged insolvent.



Example 5:

Suresh is a member of the Rajya Sabha. He is found guilty of corruption and is sentenced to imprisonment for more than two years. According to Article 102(1)(e), Suresh is disqualified from being a member of Parliament under the Representation of the People Act, 1951, which disqualifies individuals convicted of certain offenses.

Example 6:

Priya is a member of the Lok Sabha. She decides to join another political party after being elected. According to Article 102(2) and the Tenth Schedule of the Constitution, Priya is disqualified from being a member of Parliament due to defection, as she has voluntarily given up the membership of her original political party.

### **Article 103: Decision on questions as to disqualifications of members.**

Disqualification of Members of Parliament

(1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) 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.

### **Simplified act**

Disqualification of Members of Parliament

(1) If there is any doubt about whether a member of either the House of Representatives or the Senate has become disqualified as mentioned in clause (1) of article 102, the matter will be decided by the President. The President's decision will be final.

(2) Before making a decision, the President will get the opinion of the Election Commission and will follow their advice.

Explanation using Example

Example 1:

Scenario: A Member of Parliament (MP) is accused of holding an office of profit under the government, which is a disqualification under Article 102(1)(a) of the Constitution of India.

Process:

Question Raised: A complaint is filed by a political opponent alleging that the MP is holding an office of profit.

Referral to President: The question of disqualification is referred to the President of India.

Election Commission's Opinion: The President seeks the opinion of the Election Commission of India on whether the MP is indeed holding an office of profit.

Decision: The Election Commission investigates and provides its opinion to the President. The President then makes a final decision based on this opinion.

Outcome: If the President, based on the Election Commission's opinion, decides that the MP is disqualified, the MP loses their seat in Parliament.

Example 2:

Scenario: An MP is found guilty of a criminal offense and sentenced to imprisonment for two years, which is a disqualification under Article 102(1)(e) of the Constitution of India.

Process:

Question Raised: The issue of the MP's disqualification is brought to attention by a public interest litigation (PIL) filed in the Supreme Court.

Referral to President: The Supreme Court directs that the question of disqualification be referred to the President of India.

Election Commission's Opinion: The President requests the Election Commission to provide its opinion on whether the MP's conviction and sentence lead to disqualification.

Decision: The Election Commission reviews the case, considers the legal implications, and submits its opinion to the President. The President then makes a final decision based on this opinion.

Outcome: If the President, following the Election Commission's opinion, determines that the MP is disqualified, the MP is removed from their position in Parliament.

#### Example 3:

Scenario: An MP is discovered to have acquired foreign citizenship, which is a disqualification under Article 102(1)(d) of the Constitution of India.

Process:

Question Raised: A media report reveals that the MP has obtained citizenship of another country, prompting a public outcry and a formal complaint.

Referral to President: The matter is referred to the President of India for a decision on the MP's disqualification.

Election Commission's Opinion: The President seeks the opinion of the Election Commission on whether the MP's foreign citizenship results in disqualification.

Decision: The Election Commission investigates the matter, verifies the facts, and provides its opinion to the President. The President then makes a final decision based on this opinion.

Outcome: If the President, based on the Election Commission's opinion, concludes that the MP is disqualified, the MP is stripped of their parliamentary seat.

#### Example 4:

Scenario: An MP is found to have a conflict of interest due to a business partnership with a government contractor, which could be considered a disqualification under Article 102(1)(a) of the Constitution of India.

Process:

Question Raised: A whistleblower submits evidence to the Speaker of the House, alleging that the MP has a business partnership with a government contractor.

Referral to President: The Speaker refers the question of disqualification to the President of India.

Election Commission's Opinion: The President asks the Election Commission to examine the evidence and provide an opinion on whether the MP's business partnership constitutes a disqualification.

Decision: The Election Commission conducts an inquiry, reviews the evidence, and submits its opinion to the President. The President then makes a final decision based on this opinion.

Outcome: If the President, following the Election Commission's opinion, decides that the MP is disqualified, the MP is removed from their position in Parliament.

**Article 104: Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.**

If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

**Simplified act**

If someone sits or votes as a member of either House of Parliament before meeting the requirements of article 99, or if they know they are not qualified, disqualified, or prohibited by any law made by Parliament:

They will have to pay a penalty of five hundred rupees for each day they sit or vote.

This penalty will be collected as a debt owed to the Union.

Explanation using Example

Example 1:

Rajesh is elected as a Member of Parliament (MP) in the Lok Sabha. However, before taking his seat, he forgets to take the oath of office as required under Article 99 of the Constitution of India. Despite this, he attends a parliamentary session and participates in voting on a bill. According to Article 104, Rajesh is liable to pay a penalty of five hundred rupees for each day he sits or votes without taking the oath. Therefore, if he attended and voted on three separate days, he would owe a total of fifteen hundred rupees as a penalty.

Example 2:

Priya is elected as an MP in the Rajya Sabha. After her election, it is discovered that she holds an office of profit under the government, which disqualifies her from being a member of Parliament under the Representation of the People Act, 1951. Despite knowing this, Priya continues to attend sessions and vote on various matters. Under Article 104, Priya is liable to pay a penalty of five hundred rupees for each day she sits or votes while being disqualified. If she attended and voted on ten separate days, she would owe a total of five thousand rupees as a penalty.

### **POWERS, PRIVILEGES AND IMMUNITIES OF PARLIAMENT AND ITS MEMBERS**

#### **Article 105: Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.**

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

#### **Simplified act**

(1) As long as they follow the rules and procedures set by the Constitution and Parliament, members of Parliament can speak freely in Parliament.

(2) Members of Parliament cannot be taken to court for anything they say or any votes they cast in Parliament or its committees. Also, no one can be taken to court for publishing reports, papers, votes, or proceedings if they are authorized by either House of Parliament.

(3) The powers, privileges, and protections of each House of Parliament, and their members and committees, will be defined by Parliament through laws. Until such laws are made, they will have the same powers, privileges, and protections they had before the Forty-fourth Amendment of the Constitution in 1978.

(4) The rules in points (1), (2), and (3) also apply to people who have the right to speak and participate in Parliament or its committees, just like they apply to members of Parliament.

#### Explanation using Example

##### Example 1:

Scenario: A Member of Parliament (MP) makes a controversial statement during a parliamentary debate.

##### Application of Article 105:

Clause (1): The MP has the freedom to speak freely in Parliament without fear of legal repercussions, as long as they follow the rules and procedures of Parliament.

Clause (2): The MP cannot be sued or prosecuted in any court for the statement made during the parliamentary debate. This immunity also extends to any votes they cast.

Clause (4): This protection also applies to any other individuals who have the right to speak in Parliament, such as the Attorney General of India.

Outcome: The MP's controversial statement is protected under Article 105, and they cannot face legal action for it outside of Parliament.

##### Example 2:

Scenario: A journalist publishes a report on the proceedings of a parliamentary committee, including verbatim quotes from MPs.

##### Application of Article 105:

Clause (2): The journalist is protected from legal action because the report is published under the authority of the House of Parliament. This means that the publication of the report, including the quotes, is immune from court proceedings.

Clause (4): The same protection applies to any official reports or papers published by individuals who have the right to participate in parliamentary proceedings.

Outcome: The journalist cannot be sued for defamation or any other legal issue arising from the publication of the parliamentary committee's proceedings.

Example 3:

Scenario: Parliament passes a new law defining additional privileges for its members.

Application of Article 105:

Clause (3): Parliament has the authority to define new powers, privileges, and immunities for its members and committees. Until such a law is passed, the existing privileges remain in force as they were before the Forty-fourth Amendment Act, 1978.

Outcome: The new law is valid and enforceable, and MPs and parliamentary committees will enjoy the newly defined privileges and immunities.

Example 4:

Scenario: An MP votes against their party's stance on a bill and faces internal party disciplinary action.

Application of Article 105:

Clause (2): The MP is protected from any legal proceedings in court for the vote they cast in Parliament. However, this protection does not extend to internal party disciplinary actions, as those are governed by the party's rules and not by parliamentary privilege.

Outcome: While the MP cannot be taken to court for their vote, they may still face consequences within their political party, such as suspension or expulsion.

### **Article 106: Salaries and allowances of members.**

Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

### **Simplified act**

Members of either House of Parliament will get salaries and allowances as decided by Parliament through a law.

Until such a law is made, they will receive allowances at the same rates and conditions that were given to members of the Constituent Assembly of the Dominion of India just before this Constitution started.

Explanation using Example

Example 1:

Scenario: A newly elected Member of Parliament (MP) is curious about their salary and allowances.

Explanation: According to Article 106 of the Constitution of India, the salary and allowances of MPs are determined by laws passed by Parliament. Until such laws are made, MPs receive allowances at the rates and conditions that were applicable to members of the Constituent Assembly of the Dominion of India.

Example: Mr. Sharma, a newly elected MP, wants to know how much he will be paid. He learns that Parliament has passed a law specifying that MPs will receive a monthly salary of ₹1,00,000, along with allowances for travel, accommodation, and daily expenses when attending sessions. Until this law was passed, MPs received allowances based on the rates set for the Constituent Assembly members.

Example 2:

Scenario: Parliament decides to revise the salary and allowances of its members.

Explanation: Article 106 allows Parliament to change the salaries and allowances of its members by passing a new law. This means that the compensation for MPs can be adjusted as needed through legislative action.



Example: In 2023, Parliament decides that due to inflation and increased cost of living, the current salary and allowances for MPs are insufficient. A new bill is introduced and passed, increasing the monthly salary of MPs to ₹1,50,000 and adjusting the travel and accommodation allowances accordingly. This new law replaces the previous compensation structure, ensuring that MPs are fairly compensated for their duties.

## **Legislative Procedure**

### **Article 107: Provisions as to introduction and passing of Bills.**

- (1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.
- (2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.
- (3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.
- (4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.
- (5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

### **Simplified act**

- (1) Except for Money Bills and other financial Bills (which have special rules), a Bill can start in either the House of Parliament.
- (2) A Bill is not considered passed by Parliament unless both Houses agree on it, either without changes or with changes that both Houses accept.
- (3) If a Bill is still being discussed in Parliament, it won't be canceled just because Parliament takes a break.
- (4) If a Bill is being discussed in the Council of States and hasn't been passed by the House of the People, it won't be canceled if the House of the People is dissolved.

(5) If a Bill is being discussed in the House of the People, or has been passed by the House of the People and is now in the Council of States, it will be canceled if the House of the People is dissolved, except as provided in article 108.

Explanation using Example

Example 1:

Scenario: Introduction of a General Bill

Context: A Member of Parliament (MP) wants to introduce a new bill to improve the education system in India.

Application:

The MP can introduce the bill in either the Lok Sabha (House of the People) or the Rajya Sabha (Council of States) as per Article 107(1).

Once introduced, the bill must be agreed upon by both Houses. If the Lok Sabha passes the bill with amendments, the Rajya Sabha must also agree to those amendments for the bill to be considered passed, as per Article 107(2).

If the Parliament is prorogued (temporarily suspended), the bill will not lapse and will continue to be considered when Parliament reconvenes, as per Article 107(3).

If the bill is pending in the Rajya Sabha and the Lok Sabha is dissolved, the bill will not lapse and can still be considered by the new Lok Sabha, as per Article 107(4).

However, if the bill is pending in the Lok Sabha or has been passed by the Lok Sabha and is pending in the Rajya Sabha, it will lapse if the Lok Sabha is dissolved, as per Article 107(5).

Example 2:

Scenario: Introduction of a Money Bill

Context: The Finance Minister wants to introduce a new Money Bill related to the annual budget.

Application:

According to Article 107(1) and subject to Article 109, a Money Bill can only be introduced in the Lok Sabha.

Once the Lok Sabha passes the Money Bill, it is sent to the Rajya Sabha for its recommendations. The Rajya Sabha must return the bill with recommendations within 14 days, but the Lok Sabha is not bound to accept those recommendations.

If the Lok Sabha is prorogued, the Money Bill will not lapse and will continue to be considered when the Lok Sabha reconvenes, as per Article 107(3).

If the Money Bill is pending in the Rajya Sabha and the Lok Sabha is dissolved, the bill will not lapse and can still be considered by the new Lok Sabha, as per Article 107(4).

However, if the Money Bill is pending in the Lok Sabha or has been passed by the Lok Sabha and is pending in the Rajya Sabha, it will lapse if the Lok Sabha is dissolved, as per Article 107(5).

**Article 108: Joint sitting of both Houses in certain cases.**

(1) If after a Bill has been passed by one House and transmitted to the other House -

(a) the Bill is rejected by the other House; or

(b) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has elapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill: Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose

specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses: Provided that at a joint sitting -

(a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed; and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

### **Simplified act**

(1) If a Bill (a proposed law) has been approved by one House of Parliament and sent to the other House, and:

(a) the other House rejects the Bill; or

(b) the two Houses cannot agree on changes to the Bill; or

(c) more than six months pass without the other House approving the Bill, the President can, unless the Bill has expired because the House of the People (Lok Sabha) has been dissolved, inform both Houses that they will meet together to discuss and vote on the Bill. This can be done through a message if they are in session or a public announcement if they are not in session. Note: This rule does not apply to Money Bills (bills related to taxes or government spending).

(2) When counting the six months mentioned in clause (1), any time when the House is on a break (prorogued) or adjourned for more than four consecutive days is not counted.

(3) Once the President has announced that the Houses will meet together, neither House can continue working on the Bill separately. The President can call the joint meeting at any time after the announcement, and both Houses must meet as specified.

(4) If, during the joint meeting, the Bill (with any agreed changes) is approved by a majority of the members from both Houses who are present and voting, it will be considered as passed by both Houses according to the Constitution.

Note: During the joint meeting -

(a) if the Bill was passed by one House but not yet returned with changes by the other House, no new changes can be proposed except those needed because of the delay;

(b) if the Bill was passed and returned with changes, only those changes and any other relevant changes can be proposed. The person in charge of the meeting will decide which changes are allowed, and their decision is final.

(5) A joint meeting can still be held, and a Bill can be passed, even if the House of the People (Lok Sabha) has been dissolved after the President announced the joint meeting.

Explanation using Example

Example 1:

Scenario: The Lok Sabha (House of the People) passes a Bill aimed at improving road safety regulations. The Bill is then sent to the Rajya Sabha (Council of States) for approval.

Step 1: The Rajya Sabha rejects the Bill outright.

Step 2: The President of India, noticing the deadlock, decides to intervene. He notifies both Houses of his intention to call a joint sitting.

Step 3: A joint sitting of both the Lok Sabha and the Rajya Sabha is convened.

Step 4: During the joint sitting, members from both Houses deliberate on the Bill. Some amendments are proposed and agreed upon.

Step 5: The Bill, with the agreed amendments, is put to vote and is passed by a majority of the members present and voting.

Outcome: The Bill is deemed to have been passed by both Houses and is sent to the President for assent, after which it becomes law.

#### Example 2:

Scenario: The Lok Sabha passes a Bill to regulate digital currencies. The Bill is then sent to the Rajya Sabha.

Step 1: The Rajya Sabha proposes several amendments to the Bill and sends it back to the Lok Sabha.

Step 2: The Lok Sabha disagrees with the amendments proposed by the Rajya Sabha and sends the Bill back without incorporating those changes.

Step 3: More than six months pass without any resolution between the two Houses.

Step 4: The President of India, observing the prolonged deadlock, notifies both Houses of his intention to call a joint sitting.

Step 5: A joint sitting is convened where members from both Houses discuss the Bill and the proposed amendments.

Step 6: The Bill, with some amendments agreed upon during the joint sitting, is put to vote and is passed by a majority of the members present and voting.

Outcome: The Bill is considered to have been passed by both Houses and is sent to the President for assent, after which it becomes law.

#### Example 3:

Scenario: The Lok Sabha passes a Bill on environmental protection and sends it to the Rajya Sabha.

Step 1: The Rajya Sabha neither rejects the Bill nor passes it within six months.

Step 2: The President of India, noting the inaction, notifies both Houses of his intention to call a joint sitting.

Step 3: A joint sitting is convened where members from both Houses deliberate on the Bill.

Step 4: The Bill, with necessary amendments agreed upon during the joint sitting, is put to vote and is passed by a majority of the members present and voting.

Outcome: The Bill is deemed to have been passed by both Houses and is sent to the President for assent, after which it becomes law.

### **Article 109: Special procedure in respect of Money Bills.**

#### Money Bill Procedures

(1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

### **Simplified act**

#### Money Bill Procedures

(1) A Money Bill cannot be introduced in the Council of States.

(2) After the House of the People passes a Money Bill, it is sent to the Council of States for their suggestions. The Council of States has 14 days to return the

Bill with their suggestions. The House of the People can then choose to accept or reject any or all of these suggestions.

(3) If the House of the People accepts any suggestions from the Council of States, the Money Bill is considered passed by both Houses with those changes.

(4) If the House of the People does not accept any suggestions from the Council of States, the Money Bill is considered passed by both Houses in its original form, without any changes.

(5) If the Council of States does not return the Money Bill to the House of the People within 14 days, the Bill is considered passed by both Houses in its original form, as passed by the House of the People.

#### Explanation using Example

##### Example 1:

Scenario: The Government of India proposes a new Money Bill to allocate funds for a nationwide healthcare program.

Introduction: The Finance Minister introduces the Money Bill in the Lok Sabha (House of the People).

Passing in Lok Sabha: The Lok Sabha debates and passes the Money Bill.

Transmission to Rajya Sabha: The Bill is then sent to the Rajya Sabha (Council of States) for its recommendations.

Rajya Sabha's Recommendations: The Rajya Sabha reviews the Bill and suggests amendments to allocate more funds to rural healthcare.

Lok Sabha's Decision: The Lok Sabha considers the Rajya Sabha's recommendations. It accepts the suggestion to allocate more funds to rural healthcare but rejects other recommendations.

Final Passage: The Money Bill, with the accepted amendments, is deemed to have been passed by both Houses.

##### Example 2:

Scenario: The Government of India introduces a Money Bill to increase taxes on luxury goods.



Introduction: The Finance Minister introduces the Money Bill in the Lok Sabha.

Passing in Lok Sabha: The Lok Sabha debates and passes the Money Bill.

Transmission to Rajya Sabha: The Bill is sent to the Rajya Sabha for its recommendations.

Rajya Sabha's Recommendations: The Rajya Sabha suggests reducing the tax increase on certain luxury goods.

Lok Sabha's Decision: The Lok Sabha decides to reject all the recommendations made by the Rajya Sabha.

Final Passage: Since the Lok Sabha does not accept any recommendations, the Money Bill is deemed to have been passed by both Houses in its original form as passed by the Lok Sabha.

Example 3:

Scenario: The Government of India introduces a Money Bill to fund a new infrastructure project.

Introduction: The Finance Minister introduces the Money Bill in the Lok Sabha.

Passing in Lok Sabha: The Lok Sabha debates and passes the Money Bill.

Transmission to Rajya Sabha: The Bill is sent to the Rajya Sabha for its recommendations.

No Recommendations from Rajya Sabha: The Rajya Sabha does not return the Bill within the 14-day period.

Final Passage: Since the Rajya Sabha does not return the Bill within the specified period, the Money Bill is deemed to have been passed by both Houses in the form it was passed by the Lok Sabha.

Example 4:

Scenario: The Government of India introduces a Money Bill to provide subsidies for renewable energy projects.

Introduction: The Finance Minister introduces the Money Bill in the Lok Sabha.

Passing in Lok Sabha: The Lok Sabha debates and passes the Money Bill.

Transmission to Rajya Sabha: The Bill is sent to the Rajya Sabha for its recommendations.

Rajya Sabha's Recommendations: The Rajya Sabha suggests increasing the subsidy amount for solar energy projects.

Lok Sabha's Decision: The Lok Sabha accepts the recommendation to increase the subsidy amount for solar energy projects.

Final Passage: The Money Bill, with the accepted amendment, is deemed to have been passed by both Houses.

Example 5:

Scenario: The Government of India introduces a Money Bill to amend the Goods and Services Tax (GST) rates.

Introduction: The Finance Minister introduces the Money Bill in the Lok Sabha.

Passing in Lok Sabha: The Lok Sabha debates and passes the Money Bill.

Transmission to Rajya Sabha: The Bill is sent to the Rajya Sabha for its recommendations.

Rajya Sabha's Recommendations: The Rajya Sabha suggests maintaining the current GST rates for essential goods.

Lok Sabha's Decision: The Lok Sabha decides to accept some of the recommendations and reject others.

Final Passage: The Money Bill, with the accepted amendments, is deemed to have been passed by both Houses.

### **Article 110: Definition of "Money Bills".**

#### Money Bill Provisions

(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any

financial obligations undertaken or to be undertaken by the Government of India;

(c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of India;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

### **Simplified act**

#### **Money Bill Provisions**

(1) For this section, a Bill is considered a Money Bill if it only includes rules about any of the following:

(a) creating, removing, changing, or managing any tax;

(b) managing how the Government of India borrows money or gives guarantees, or changing the laws about financial responsibilities of the Government of India;

(c) handling the money in the Consolidated Fund or the Contingency Fund of India, including putting money in or taking money out of these funds;

(d) using money from the Consolidated Fund of India;

(e) declaring certain expenses to be paid from the Consolidated Fund of India or increasing those expenses;

(f) receiving money for the Consolidated Fund of India or the public account of India, managing this money, or auditing the accounts of the Union or a State;

(g) any other matter related to the points mentioned in (a) to (f).

(2) A Bill is not considered a Money Bill just because it includes rules about fines, penalties, fees for licenses, or fees for services, or because it includes rules about local taxes managed by local authorities.

(3) If there is any doubt about whether a Bill is a Money Bill, the Speaker of the House of the People will make the final decision.

(4) Every Money Bill must have a certificate from the Speaker of the House of the People, signed by them, stating that it is a Money Bill when it is sent to the Council of States under article 109 and when it is presented to the President for approval under article 111.

#### Explanation using Example

##### Example 1:

The Government of India decides to introduce a new tax on luxury goods to increase revenue. The Finance Minister presents a Bill in the Lok Sabha (House of the People) that includes provisions for the imposition of this new tax, its rate, and the manner in which it will be collected. Since the Bill deals with the imposition of a tax, it is classified as a Money Bill under Article 110(1)(a) of the Constitution of India. The Speaker of the Lok Sabha certifies it as a Money Bill, and it is then sent to the Rajya Sabha (Council of States) for consideration. The Rajya Sabha can suggest amendments, but the Lok Sabha is not obligated to accept them. Finally, the Bill is presented to the President for assent, with the Speaker's certification that it is a Money Bill.

##### Example 2:

The Government of India needs to borrow a significant amount of money to fund a large infrastructure project. A Bill is introduced in the Lok Sabha that

outlines the terms and conditions under which the government will borrow the money, including the interest rate and repayment schedule. This Bill also includes provisions for the government to issue guarantees for loans taken by public sector enterprises. Since the Bill deals with the regulation of borrowing and the giving of guarantees by the Government of India, it falls under Article 110(1)(b) and is classified as a Money Bill. The Speaker of the Lok Sabha certifies it as a Money Bill, and it follows the same legislative process as described in Example 1.

#### Example 3:

The Government of India needs to withdraw funds from the Consolidated Fund of India to meet its expenditure for the upcoming financial year. A Bill is introduced in the Lok Sabha that specifies the amounts to be appropriated from the Consolidated Fund for various government departments and projects. This Bill deals with the appropriation of money out of the Consolidated Fund of India, making it a Money Bill under Article 110(1)(d). The Speaker of the Lok Sabha certifies it as a Money Bill, and it is then sent to the Rajya Sabha for consideration. After the Rajya Sabha's review, the Bill is presented to the President for assent with the Speaker's certification.

#### Example 4:

The Government of India decides to amend the law related to the audit of accounts of the Union and the States to improve transparency and accountability. A Bill is introduced in the Lok Sabha that includes provisions for the new audit procedures and the roles and responsibilities of the Comptroller and Auditor General of India. Since the Bill deals with the audit of the accounts of the Union and the States, it is classified as a Money Bill under Article 110(1)(f). The Speaker of the Lok Sabha certifies it as a Money Bill, and it follows the legislative process as outlined in the previous examples.

### **Article 111: Assent to Bills.**

When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of

introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

### **Simplified act**

When a Bill (a proposed law) is approved by both Houses of Parliament, it is sent to the President.

The President then has two choices: a. Approve the Bill (give assent). b. Reject the Bill (withhold assent).

However, if the Bill is not about money (not a Money Bill), the President can send it back to the Houses of Parliament with suggestions for changes.

The Houses of Parliament must then reconsider the Bill and the President's suggestions.

If the Bill is approved again by the Houses, with or without changes, and sent back to the President, the President must approve it (give assent).

#### Explanation using Example

##### Example 1:

Scenario: The Parliament passes a new Education Bill aimed at reforming the education system in India.

Step 1: The Bill is debated and passed by both the Lok Sabha (House of the People) and the Rajya Sabha (Council of States).

Step 2: The Bill is then presented to the President of India for assent.

Step 3: The President reviews the Bill and decides to withhold assent, citing concerns about certain provisions that may not be in the best interest of the public.

Step 4: The President returns the Bill to the Parliament with a message requesting reconsideration of specific provisions and suggesting amendments.

Step 5: The Parliament reconsiders the Bill, makes the suggested amendments, and passes it again.

Step 6: The amended Bill is presented to the President once more.

Step 7: This time, the President gives assent to the Bill, and it becomes law.

#### Example 2:

Scenario: The Parliament passes a new Environmental Protection Bill to address pollution and climate change.

Step 1: The Bill is passed by both the Lok Sabha and the Rajya Sabha.

Step 2: The Bill is presented to the President for assent.

Step 3: The President reviews the Bill and decides to return it to the Parliament, requesting reconsideration of a provision that imposes heavy fines on small businesses for minor environmental violations.

Step 4: The Parliament reconsiders the Bill and decides to amend the provision to include a tiered fine system based on the severity of the violation.

Step 5: The amended Bill is passed again by both Houses and presented to the President.

Step 6: The President gives assent to the amended Bill, and it becomes law.

#### Example 3:

Scenario: The Parliament passes a Money Bill related to the annual budget.

Step 1: The Money Bill is passed by the Lok Sabha and sent to the Rajya Sabha for recommendations.

Step 2: The Rajya Sabha makes recommendations, but the Lok Sabha is not bound to accept them.

Step 3: The Bill is then presented to the President for assent.

Step 4: Since it is a Money Bill, the President cannot return it for reconsideration.

Step 5: The President gives assent to the Bill, and it becomes law, enabling the government to implement the budget.

#### Example 4:

Scenario: The Parliament passes a Health Care Bill to improve public health services.

Step 1: The Bill is passed by both the Lok Sabha and the Rajya Sabha.

Step 2: The Bill is presented to the President for assent.

Step 3: The President reviews the Bill and decides to return it to the Parliament, requesting reconsideration of a provision that mandates compulsory health insurance for all citizens.

Step 4: The Parliament reconsiders the Bill and decides to amend the provision to make health insurance optional but highly recommended.

Step 5: The amended Bill is passed again by both Houses and presented to the President.

Step 6: The President gives assent to the amended Bill, and it becomes law.

Example 5:

Scenario: The Parliament passes a Digital Privacy Bill to protect citizens' online data.

Step 1: The Bill is passed by both the Lok Sabha and the Rajya Sabha.

Step 2: The Bill is presented to the President for assent.

Step 3: The President reviews the Bill and decides to withhold assent, citing concerns about the lack of provisions for government accountability.

Step 4: The President returns the Bill to the Parliament with a message requesting the inclusion of specific amendments to address these concerns.

Step 5: The Parliament reconsiders the Bill, makes the suggested amendments, and passes it again.

Step 6: The amended Bill is presented to the President once more.

Step 7: The President gives assent to the Bill, and it becomes law, ensuring better protection of citizens' online data.

### **Procedure in Financial Matters**

#### **Article 112: Annual financial statement.**

##### **Annual Financial Statement**

(1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and



expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately -

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India -

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d)

(i) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(ii) the pensions payable to or in respect of Judges of the Federal Court;

(iii) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in a Governor's Province of the Dominion of India;

(e) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;

(f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(g) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

### **Simplified act**

#### Annual Financial Statement

(1) Every year, the President must present a report to both Houses of Parliament. This report will show the estimated income and spending of the Government of India for that year. This report is called the "annual financial statement."

(2) The spending estimates in the annual financial statement must separately show:

(a) the amounts needed for expenses that the Constitution says must be paid from the Consolidated Fund of India; and

(b) the amounts needed for other expenses that will be paid from the Consolidated Fund of India.

The statement must also separate spending on regular operations from other types of spending.

(3) The following expenses must be paid from the Consolidated Fund of India:

(a) the salary and allowances of the President and other expenses related to his office;

(b) the salaries and allowances of the Chairman and Deputy Chairman of the Council of States, and the Speaker and Deputy Speaker of the House of the People;

(c) debt payments that the Government of India owes, including interest, sinking fund charges, and costs related to taking and repaying loans;

(d)

(i) the salaries, allowances, and pensions for Judges of the Supreme Court;

(ii) the pensions for Judges of the old Federal Court;

(iii) the pensions for Judges of any High Court that has jurisdiction over any area in India, or that had jurisdiction over any area in India before the Constitution started;

(e) the salary, allowances, and pension for the Comptroller and Auditor-General of India;

(f) any amounts needed to satisfy any judgment, decree, or award from any court or arbitration tribunal;

(g) any other expenses that the Constitution or Parliament declares must be paid from the Consolidated Fund of India.

Explanation using Example

Example 1:

Scenario: Presentation of the Annual Budget

Description: Every year, the President of India ensures that a detailed financial statement, known as the annual financial statement or the Union Budget, is presented before both Houses of Parliament. This statement includes the estimated receipts (income) and expenditure (expenses) of the Government of India for the upcoming financial year.

Example: In February, the Finance Minister, on behalf of the President, presents the Union Budget for the financial year 2023-2024. The budget outlines the government's plans for revenue collection through taxes and other means, and how it intends to spend this money on various sectors such as healthcare, education, defense, and infrastructure.

Example 2:

Scenario: Distinguishing Expenditure in the Budget

Description: The annual financial statement must clearly differentiate between two types of expenditures: those charged upon the Consolidated Fund of India and other expenditures. It must also distinguish between revenue expenditure (day-to-day expenses) and capital expenditure (long-term investments).

Example: In the Union Budget for 2023-2024, the Finance Minister specifies that ₹50,000 crore is required for the salaries and allowances of the President, Vice President, and judges of the Supreme Court and High Courts. This amount is charged upon the Consolidated Fund of India and is non-negotiable.

Additionally, ₹1,00,000 crore is allocated for building new highways and infrastructure projects, which is categorized as capital expenditure.

#### Example 3:

##### Scenario: Expenditure Charged on the Consolidated Fund of India

Description: Certain expenditures are automatically charged on the Consolidated Fund of India and do not require annual approval by Parliament. These include the salaries and allowances of high-ranking officials, debt charges, and any sums required to satisfy court judgments.

Example: During the financial year 2023-2024, the government needs to pay ₹10,000 crore in interest on loans it has taken. This amount is automatically charged on the Consolidated Fund of India and is included in the annual financial statement without needing separate approval from Parliament. Similarly, ₹5,000 crore is allocated for the salaries and pensions of Supreme Court judges, which is also charged on the Consolidated Fund of India.

#### Example 4:

##### Scenario: Satisfying Court Judgments

Description: If the Government of India is required to pay any amount due to a court judgment, decree, or arbitral award, this expenditure is charged on the Consolidated Fund of India.

Example: In a landmark judgment, the Supreme Court orders the Government of India to pay ₹2,000 crore as compensation to a group of citizens affected by a government project. This amount is included in the annual financial statement and is charged on the Consolidated Fund of India, ensuring that the payment is made without delay.

#### Example 5:

##### Scenario: Parliamentary Approval of the Budget

Description: While certain expenditures are charged on the Consolidated Fund of India and do not require annual approval, other expenditures proposed in the budget must be approved by Parliament.

Example: The Union Budget for 2023-2024 proposes ₹20,000 crore for new educational initiatives. This amount is not automatically charged on the Consolidated Fund of India and requires approval from both Houses of

Parliament. Members of Parliament debate and vote on this proposed expenditure before it is finalized and included in the budget.

**Article 113: Procedure in Parliament with respect to estimates.**

(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

**Simplified act**

(1) The part of the budget that deals with expenses directly taken from the Consolidated Fund of India does not need to be voted on by Parliament. However, this does not stop Parliament from discussing these expenses.

(2) The part of the budget that deals with other expenses must be presented to the House of the People (Lok Sabha) as requests for funding. The House of the People can agree to these requests, reject them, or agree to them with a reduced amount.

(3) No request for funding can be made without the President's recommendation.

Explanation using Example

Example 1:

Scenario: The Indian government has prepared the annual budget, which includes various expenditures.

Application of Article 113:

Expenditure Charged Upon the Consolidated Fund of India:

The budget includes expenses such as salaries of the President, judges of the Supreme Court, and interest payments on government debt.

These expenses are charged upon the Consolidated Fund of India and are not subject to a vote in Parliament.

However, members of Parliament can discuss these expenses in both the Lok Sabha (House of the People) and the Rajya Sabha (Council of States).

Other Expenditures:

The budget also includes other expenditures like funding for new infrastructure projects, education programs, and healthcare initiatives.

These expenditures are presented as demands for grants to the Lok Sabha.

Members of the Lok Sabha can vote to approve, reject, or reduce the amount requested in these demands.

Recommendation of the President:

Before any demand for a grant is made, it must be recommended by the President of India.

For instance, if the Ministry of Health requests additional funds for a new healthcare initiative, this request must first be recommended by the President before it is presented to the Lok Sabha for approval.

Example 2:

Scenario: A new government is elected, and they propose a supplementary budget to address urgent needs.

Application of Article 113:

Expenditure Charged Upon the Consolidated Fund of India:

The supplementary budget includes emergency funds for disaster relief, which are charged upon the Consolidated Fund of India.

These funds are not subject to a vote in Parliament but can be discussed by members of both Houses.

Other Expenditures:

The supplementary budget also includes additional funds for upgrading public transportation and improving rural infrastructure.

These expenditures are presented as supplementary demands for grants to the Lok Sabha.

Members of the Lok Sabha debate and vote on these supplementary demands. They can approve the full amount, reduce it, or reject it entirely.

Recommendation of the President:

The supplementary demands for grants must be recommended by the President before being presented to the Lok Sabha.

For example, if the Ministry of Rural Development requests additional funds for rural infrastructure, the President's recommendation is required before the Lok Sabha can consider the request.

#### **Article 114: Appropriation Bills.**

(1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet -

(a) the grants so made by the House of the People; and

(b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

#### **Simplified act**

## Appropriation Bill

(1) After the House of the People (Lok Sabha) approves the grants under Article 113, a Bill will be introduced to allocate money from the Consolidated Fund of India to cover:

(a) the grants approved by the House of the People; and

(b) the expenses charged to the Consolidated Fund of India, but not more than the amount previously presented to Parliament.

(2) No changes can be made to this Bill in either House of Parliament that would change the amount or purpose of any grant approved, or change the amount of any expenses charged to the Consolidated Fund of India. The decision of the person in charge about whether a change is allowed is final.

(3) According to Articles 115 and 116, no money can be taken out of the Consolidated Fund of India unless it is approved by a law passed according to the rules in this article.

## Explanation using Example

### Example 1:

Scenario: The Indian government has proposed a new budget for the upcoming financial year. The budget includes various grants for different sectors such as education, healthcare, and infrastructure.

### Application of Article 114:

Introduction of Appropriation Bill: After the House of the People (Lok Sabha) approves the grants under Article 113, the Finance Minister introduces an Appropriation Bill in the Parliament. This bill specifies the total amount of money required from the Consolidated Fund of India to meet the approved grants and other expenditures.

No Amendments Allowed: During the discussion of the Appropriation Bill in either House of Parliament, no member can propose amendments that would change the amount or purpose of the grants already approved. For instance, if ₹10,000 crore has been approved for healthcare, no member can propose to increase or decrease this amount or divert it to another sector.



**Final Decision:** If there is any dispute about the admissibility of an amendment, the decision of the presiding officer (Speaker of the Lok Sabha or Chairman of the Rajya Sabha) is final.

**Withdrawal of Funds:** Once the Appropriation Bill is passed by both Houses of Parliament and receives the President's assent, the government can withdraw the specified amounts from the Consolidated Fund of India to fund the approved grants and expenditures.

**Example 2:**

**Scenario:** The government needs additional funds for disaster relief due to an unexpected natural calamity.

**Application of Article 114:**

**Supplementary Appropriation Bill:** After the initial budget and grants have been approved, the government realizes that additional funds are needed for disaster relief. The Finance Minister introduces a Supplementary Appropriation Bill in the Parliament to provide for the additional funds required.

**Approval Process:** The Supplementary Appropriation Bill follows the same process as the original Appropriation Bill. It must be approved by the House of the People and then passed by both Houses of Parliament.

**No Amendments Allowed:** Similar to the original Appropriation Bill, no amendments can be proposed to change the amount or purpose of the additional grants. For example, if ₹5,000 crore is requested for disaster relief, no member can propose to use this amount for any other purpose.

**Final Decision and Withdrawal:** Once the Supplementary Appropriation Bill is passed and receives the President's assent, the government can withdraw the additional funds from the Consolidated Fund of India to address the disaster relief efforts.

**Example 3:**

**Scenario:** The government has allocated funds for a new infrastructure project, but halfway through the financial year, it becomes evident that the project requires more funds than initially estimated.

**Application of Article 114:**

**Revised Appropriation Bill:** The Finance Minister introduces a Revised Appropriation Bill to cover the additional funds needed for the infrastructure project.

**Approval Process:** The Revised Appropriation Bill is presented to the House of the People for approval. Once approved, it is then passed by both Houses of Parliament.

**No Amendments Allowed:** During the discussion, no amendments can be proposed to alter the amount or purpose of the additional funds requested for the infrastructure project.

**Final Decision and Withdrawal:** After the Revised Appropriation Bill is passed and receives the President's assent, the government can withdraw the additional funds from the Consolidated Fund of India to continue the infrastructure project without any financial hindrance.

These examples illustrate how Article 114 ensures that the government can only withdraw funds from the Consolidated Fund of India through a legally approved process, maintaining financial discipline and accountability.

**Article 115: Supplementary, additional or excess grants.**

Article - (1) The President shall -

(a) if the amount authorised by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they

have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

### **Simplified act**

Article - (1) The President shall -

(a) if the money approved by law for a specific service for the current financial year is not enough, or if there is a need for extra money for a new service not planned in the annual budget, or

(b) if more money has been spent on a service than what was approved for that year,

make sure to present another statement to both Houses of Parliament showing the estimated extra amount needed, or present a request to the House of the People for the extra money spent, as needed.

(2) The rules in articles 112, 113, and 114 will apply to this new statement and extra spending or request for extra money, just like they apply to the annual budget and its spending or requests for grants. These rules will also apply to any law needed to approve taking money from the Consolidated Fund of India to cover this extra spending or grant.

Explanation using Example

Example 1:

The Ministry of Health and Family Welfare had an approved budget of ₹10,000 crores for the financial year 2022-2023 to manage healthcare services across India. However, due to an unexpected outbreak of a new virus, the allocated funds were insufficient to cover the additional expenses required for emergency healthcare services, vaccines, and medical supplies.

In this scenario, the President, following Article 115, would present a supplementary statement to both Houses of Parliament, requesting an additional ₹5,000 crores to manage the unforeseen healthcare crisis. This supplementary grant would then be debated and approved by Parliament, ensuring that the Ministry has the necessary funds to address the emergency.

Example 2:

The Ministry of Education was granted ₹8,000 crores for the financial year 2022-2023 to improve school infrastructure and implement new educational programs. Midway through the year, it was discovered that the Ministry had already spent ₹9,000 crores due to the rapid expansion of digital education initiatives, which were not initially planned in the annual financial statement.

In this case, the President would present a statement to the House of the People (Lok Sabha) detailing the excess expenditure of ₹1,000 crores. The President would also request an additional grant to cover this excess amount. Parliament would then review and approve the excess grant, ensuring that the Ministry of Education's expenditures are legally sanctioned and funded.

#### Example 3:

The Ministry of Agriculture had an approved budget of ₹15,000 crores for the financial year 2022-2023. During the year, a severe drought affected several states, necessitating additional funds for drought relief measures, which were not anticipated in the original budget.

The President, under Article 115, would lay before both Houses of Parliament a supplementary statement requesting an additional ₹3,000 crores to address the drought relief efforts. Parliament would then discuss and approve the supplementary grant, allowing the Ministry of Agriculture to provide the necessary support to the affected states.

#### Example 4:

The Ministry of Defence was allocated ₹50,000 crores for the financial year 2022-2023. However, due to escalating border tensions, the Ministry had to spend an additional ₹7,000 crores on urgent defense procurements and military operations, exceeding the initially granted amount.

In this situation, the President would present a statement to the House of the People, detailing the excess expenditure and requesting an additional grant of ₹7,000 crores. Parliament would review and approve the excess grant, ensuring that the Ministry of Defence's expenditures are legally covered and funded.

### **Article 116: Votes on account, votes of credit and exceptional grants.**

Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year, and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

### **Simplified act**

Despite anything mentioned earlier in this Chapter, the House of the People (Lok Sabha) has the power:

(a) To give money in advance for estimated expenses for part of a financial year while waiting for the completion of the process described in Article 113 for approving such money and passing the law as per Article 114 for that expense;

(b) To give money for unexpected needs when the demand is too large or unclear to be detailed in the usual annual financial statement;

(c) To give special money that is not part of the regular expenses for any financial year, and Parliament can authorize by law the withdrawal of money from the Consolidated Fund of India for the purposes for which these grants are made.

The rules in Articles 113 and 114 will apply to the giving of any money under clause (1) and to any law made under that clause, just as they apply to the giving of money for any expenses mentioned in the annual financial statement

and the law made for authorizing the use of money from the Consolidated Fund of India to cover such expenses.

#### Explanation using Example

##### Example 1:

The Indian government is in the middle of a financial year, and a natural disaster, such as a severe flood, strikes a major state. The government needs immediate funds to provide relief and rehabilitation to the affected people. However, the detailed annual financial statement and the usual budgetary process are not yet completed. In this scenario, the House of the People (Lok Sabha) can use Article 116(a) to make a grant in advance to cover the estimated expenditure for the relief efforts. This allows the government to act swiftly without waiting for the completion of the usual budgetary procedures.

##### Example 2:

The Indian government is faced with an unexpected international crisis that requires a significant increase in defense spending. The exact amount and details of the expenditure are not clear due to the indefinite nature of the crisis. Under Article 116(b), the House of the People can make a grant to meet this unexpected demand on the resources of India. This grant does not need the detailed breakdown usually required in the annual financial statement, allowing the government to allocate funds quickly to address the crisis.

##### Example 3:

The Indian government decides to launch a new space exploration mission that was not part of the current financial year's planned services. This mission requires a substantial amount of funding that was not included in the original budget. According to Article 116(c), the House of the People can make an exceptional grant for this purpose. This grant is separate from the current financial year's services and allows the government to withdraw money from the Consolidated Fund of India specifically for the new space mission.

#### **Article 117: Special provisions as to financial Bills.**

(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

### **Simplified act**

(1) A Bill or amendment that deals with any of the specific matters listed in sub-clauses (a) to (f) of clause (1) of article 110 can only be introduced or moved if the President recommends it. Also, such a Bill cannot be introduced in the Council of States:

However, if the amendment is about reducing or getting rid of any tax, it does not need the President's recommendation.

(2) A Bill or amendment is not considered to deal with the specific matters mentioned just because it includes fines, penalties, fees for licenses, or fees for services. It also doesn't count if it involves local taxes managed by local authorities.

(3) A Bill that would require spending money from the Consolidated Fund of India cannot be passed by either House of Parliament unless the President has recommended that the House consider the Bill.

Explanation using Example

Example 1:

The Indian government wants to introduce a new bill that proposes to increase the income tax rate for individuals earning above a certain threshold. According to Article 117(1), this bill cannot be introduced in the Parliament without the recommendation of the President. Additionally, this bill cannot be

introduced in the Rajya Sabha (Council of States) but must be introduced in the Lok Sabha (House of the People). However, if an amendment is proposed to reduce or abolish this new tax rate, such an amendment does not require the President's recommendation.

**Example 2:**

A new bill is proposed to impose a fine for littering in public places. According to Article 117(2), this bill does not fall under the special provisions of financial bills because it only imposes fines and does not deal with taxes or other financial matters specified in Article 110. Therefore, this bill can be introduced without the President's recommendation and can be introduced in either House of Parliament.

**Example 3:**

The government proposes a bill to allocate funds for a new national highway project, which will involve expenditure from the Consolidated Fund of India. According to Article 117(3), this bill cannot be passed by either the Lok Sabha or the Rajya Sabha unless the President has recommended the consideration of the bill to the respective House. This ensures that the President is aware of and approves the expenditure from the national treasury before the bill is passed.

**Example 4:**

A local municipal corporation proposes a bill to increase property taxes within its jurisdiction to fund local infrastructure projects. According to Article 117(2), this bill does not require the President's recommendation because it deals with the imposition of taxes by a local authority for local purposes. Therefore, the municipal corporation can proceed with the bill without needing approval from the President or the Parliament.

### **Procedure Generally**

#### **Article 118: Rules of procedure.**

(1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made



therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

### **Simplified act**

(1) Each House of Parliament can create rules to manage how they operate and conduct their business, as long as they follow the Constitution.

(2) Until new rules are made, the old rules that were in place before the Constitution started will continue to apply to Parliament. These old rules can be changed by the Chairman of the Council of States or the Speaker of the House of the People.

(3) The President, after talking with the Chairman of the Council of States and the Speaker of the House of the People, can make rules about how the two Houses should work together and communicate.

(4) When both Houses meet together, the Speaker of the House of the People will lead the meeting. If the Speaker is not there, someone else chosen by the rules made under clause (3) will lead the meeting.

Explanation using Example

Example 1:

Scenario: The Lok Sabha (House of the People) wants to introduce a new rule regarding the time allocated for members to speak during debates.

Application of Article 118(1): The Lok Sabha can create a rule that limits each member to a maximum of 10 minutes for their speech during debates. This rule is made to ensure that all members get an opportunity to speak and that the debates are conducted efficiently. This new rule must comply with the overall provisions of the Constitution of India.

Example 2:

Scenario: The Rajya Sabha (Council of States) is operating under the rules that were in place before the Constitution of India was enacted, and there is a need to modify these rules to better suit current needs.

Application of Article 118(2): Until the Rajya Sabha creates its own new rules, it will continue to follow the old rules that were in place for the Legislature of the Dominion of India. However, the Chairman of the Rajya Sabha can make necessary modifications and adaptations to these old rules to ensure they are relevant and effective for the current functioning of the Rajya Sabha.

Example 3:

Scenario: There is a need for a joint session of both the Lok Sabha and the Rajya Sabha to resolve a deadlock on a particular bill.

Application of Article 118(3): The President of India, after consulting with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha, can establish rules for how the joint session will be conducted. This includes how members will communicate and the procedures to be followed during the joint session.

Example 4:

Scenario: During a joint session of Parliament, the Speaker of the Lok Sabha is unavailable to preside over the meeting.

Application of Article 118(4): In the absence of the Speaker of the Lok Sabha, another person, as determined by the rules made under Article 118(3), will preside over the joint session. This ensures that the joint session can proceed smoothly even if the Speaker is not present.

### **Article 119: Regulation by law of procedure in Parliament in relation to financial business.**

Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

### **Simplified act**

Parliament can create laws to ensure that financial business is completed on time.

These laws can set the rules for how each House of Parliament handles financial matters or bills that involve taking money from the Consolidated Fund of India.

If any part of these laws conflicts with the rules made by a House of Parliament under Article 118(1) or with any other rules or standing orders related to Parliament under Article 118(2), the laws made by Parliament will take priority.

Explanation using Example

Example 1:

Scenario: The Indian government needs to pass a budget for the upcoming financial year.

Application of Article 119: The Parliament of India is responsible for passing the budget, which includes the allocation of funds for various government departments and initiatives. To ensure that the budget is passed in a timely manner, Parliament may establish specific procedures and rules for debating and voting on the budget. For instance, if there is a rule under Article 118 that allows for unlimited debate on financial matters, but a new law under Article 119 sets a time limit for debates to ensure timely passage, the new law will take precedence. This ensures that the financial business is completed efficiently and without unnecessary delays.

Example 2:

Scenario: A new Bill proposes to allocate funds for a national healthcare program from the Consolidated Fund of India.

Application of Article 119: The Bill needs to be discussed and approved by both Houses of Parliament. To streamline this process, Parliament may enact a law under Article 119 that specifies the procedure for discussing and voting on such financial Bills. For example, the law might require that the Bill be reviewed by a special financial committee before being presented to the full House for debate. If this new procedure conflicts with existing rules or standing orders under Article 118, the provisions of the new law will override the old rules. This ensures that the financial business related to the healthcare program is handled efficiently and in a timely manner.

### Example 3:

Scenario: During a financial crisis, the government needs to quickly pass a Bill to allocate emergency funds for disaster relief.

Application of Article 119: In such urgent situations, Parliament may need to expedite the legislative process to ensure that funds are made available without delay. Under Article 119, Parliament can pass a law that temporarily modifies the usual procedures for financial Bills, such as reducing the number of readings or shortening the debate period. If these temporary procedures conflict with existing parliamentary rules, the new law will take precedence. This allows Parliament to respond swiftly to the financial crisis and provide the necessary funds for disaster relief.

### Example 4:

Scenario: A Member of Parliament (MP) raises a point of order, claiming that the procedure being followed for a financial Bill is against the standing orders of the House.

Application of Article 119: If the procedure being followed is based on a law enacted under Article 119, then that law will prevail over the standing orders cited by the MP. For example, if the standing orders require a detailed committee review for all financial Bills, but a law under Article 119 allows for bypassing this step in certain urgent cases, the law will take precedence. This ensures that the financial business is conducted as per the most relevant and timely regulations, even if they differ from the usual standing orders.

## **Article 120: Language to be used in Parliament.**

(1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English:

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother-tongue.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

## **Simplified act**

(1) Despite what is written in Part XVII, but keeping in mind the rules of article 348, the business in Parliament will be conducted in Hindi or English:

However, the Chairman of the Council of States or the Speaker of the House of the People, or someone acting in their place, can allow any member who cannot speak well in Hindi or English to speak in their own language.

(2) Unless Parliament decides otherwise by making a law, this rule will change fifteen years after the Constitution starts, and it will be as if the words "or in English" are removed.

Explanation using Example

Example 1:

Mr. Sharma, a Member of Parliament (MP) from a rural constituency in Tamil Nadu, is not fluent in Hindi or English. During a parliamentary session, he wishes to discuss a critical issue affecting his constituency. According to Article 120, Mr. Sharma can request permission from the Speaker of the House of the People to address the Parliament in Tamil, his mother-tongue. The Speaker grants this permission, allowing Mr. Sharma to effectively communicate his concerns and participate in the legislative process.

Example 2:

Ms. Patel, an MP from Gujarat, is more comfortable speaking in Gujarati than in Hindi or English. During a debate on a new agricultural bill, she finds it challenging to articulate her points in the official languages. She approaches the Chairman of the Council of States and requests to speak in Gujarati. The Chairman, recognizing her difficulty, permits her to use her mother-tongue. This ensures that Ms. Patel can contribute meaningfully to the debate, reflecting the diverse linguistic landscape of India.

Example 3:

Fifteen years after the commencement of the Constitution, a new law is proposed in Parliament to remove the use of English in parliamentary business, as per the provision in Article 120(2). However, many MPs argue that English is still widely used and understood across the country. After extensive debate, Parliament decides not to enact the law, thereby continuing the use of both Hindi and English for conducting business in Parliament. This decision

helps maintain inclusivity and ensures that MPs from different linguistic backgrounds can participate effectively.

### **Article 121: Restriction on discussion in Parliament.**

No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

### **Simplified act**

Parliament cannot talk about how a Supreme Court or High Court Judge is doing their job.

The only time Parliament can discuss a Judge's conduct is if they are asking the President to remove the Judge.

Explanation using Example

Example 1:

During a parliamentary session, a Member of Parliament (MP) raises a question about a recent judgment delivered by a Supreme Court judge, suggesting that the judge may have been biased. Another MP immediately objects, citing Article 121 of the Constitution of India, which restricts any discussion on the conduct of a judge in the discharge of his duties. The Speaker of the House then rules that the discussion is out of order and cannot proceed unless a formal motion for the judge's removal is presented to the President.

Example 2:

An MP is concerned about the behavior of a High Court judge who has been accused of corruption. The MP wants to discuss this issue in Parliament. However, before doing so, the MP must follow the procedure outlined in Article 121. The MP, along with other members, drafts a motion for presenting an address to the President, praying for the removal of the judge. Only after this motion is formally presented can the Parliament discuss the conduct of the judge in question.

### **Article 122: Courts not to inquire into proceedings of Parliament.**

(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

### **Simplified act**

(1) You cannot challenge or question the validity of any actions or decisions made in Parliament just because there might have been some procedural mistakes.

(2) Any officer or member of Parliament who has the authority to manage procedures, conduct business, or maintain order in Parliament cannot be taken to court for how they use those powers.

Explanation using Example

Example 1:

During a parliamentary session, a Member of Parliament (MP) raises a point of order regarding the procedure followed in passing a new bill. The MP claims that the procedure was not followed correctly according to the parliamentary rules. Another MP decides to take this matter to the court, arguing that the bill should be invalidated due to this procedural irregularity.

Application of Article 122: The court will refuse to entertain this case because Article 122(1) states that the validity of any proceedings in Parliament cannot be questioned on the grounds of procedural irregularity. The court has no jurisdiction to interfere in the internal procedures of Parliament.

Example 2:

The Speaker of the Lok Sabha (the lower house of Parliament) decides to suspend an MP for unruly behavior during a session. The suspended MP feels that the suspension was unfair and decides to challenge the Speaker's decision in court, claiming that the Speaker abused his power.

Application of Article 122: The court will not take up this case because Article 122(2) specifies that no officer or member of Parliament, including the Speaker, can be subject to the jurisdiction of any court for actions taken in the exercise of their powers to regulate procedure or maintain order in Parliament. The Speaker's decision is protected from judicial review.

## **CHAPTER III: LEGISLATIVE POWERS OF THE PRESIDENT**

## **Article 123: Power of President to promulgate Ordinances during recess of Parliament.**

(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance -

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

Explanation. - Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

(4) \*

\* \* \* \*

### **Simplified act**

(1) If at any time, except when both Houses of Parliament are meeting, the President believes that there is an urgent situation that requires immediate action, he can issue an Ordinance (a temporary law) that he thinks is necessary.

(2) An Ordinance issued by the President will have the same power as a law made by Parliament, but:

(a) It must be presented to both Houses of Parliament and will stop being effective six weeks after Parliament meets again, unless both Houses reject it earlier by passing resolutions against it.

(b) The President can cancel the Ordinance at any time.



Explanation. - If the two Houses of Parliament meet on different dates, the six-week period will start from the later date.

(3) If the Ordinance includes anything that Parliament is not allowed to make into law according to the Constitution, that part of the Ordinance will be invalid.

(4) \*

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### Explanation using Example

#### Example 1:

During the monsoon season, heavy rains cause severe flooding in several states of India, leading to widespread damage and displacement of people. The Parliament is not in session, and immediate action is required to provide relief and rehabilitation to the affected population. The President, upon being satisfied with the urgency of the situation, promulgates an Ordinance to allocate emergency funds and resources for flood relief and rehabilitation efforts. This Ordinance has the same effect as an Act of Parliament and will be laid before both Houses once they reassemble. If the Parliament does not disapprove the Ordinance within six weeks of reassembly, it continues to operate as law.

#### Example 2:

A sudden outbreak of a contagious disease occurs in India, and there is an urgent need to implement strict quarantine measures and allocate resources for medical facilities. The Parliament is in recess, and the President, recognizing the necessity for immediate action, promulgates an Ordinance to enforce quarantine regulations and allocate funds for healthcare infrastructure. This Ordinance is treated as an Act of Parliament and will be presented to both Houses when they reconvene. If both Houses do not pass resolutions disapproving the Ordinance within six weeks of reassembly, it remains in effect.

#### Example 3:

The government identifies a critical need to amend existing labor laws to protect workers' rights in the wake of an economic crisis. The Parliament is not in session, and the President, upon being convinced of the urgency,

promulgates an Ordinance to amend the labor laws, ensuring immediate protection for workers. This Ordinance is equivalent to an Act of Parliament and will be laid before both Houses when they reassemble. If the Parliament does not disapprove the Ordinance within six weeks of reassembly, it continues to operate as law.

Example 4:

A significant cyber-attack targets India's critical infrastructure, and there is an urgent need to strengthen cybersecurity laws and allocate resources for defense mechanisms. The Parliament is in recess, and the President, recognizing the immediate need for action, promulgates an Ordinance to enhance cybersecurity measures and allocate necessary resources. This Ordinance has the same force as an Act of Parliament and will be presented to both Houses upon their reassembly. If the Parliament does not disapprove the Ordinance within six weeks of reassembly, it remains in effect.

#### **CHAPTER IV: THE UNION JUDICIARY**

##### **Article 124: Establishment and constitution of the Supreme Court.**

Supreme Court of India

(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal on the recommendation of the National Judicial Appointments Commission referred to in article 124A and shall hold office until he attains the age of sixty-five years:

\* \* \* \* \*

Provided that -

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and -

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist.

Explanation I. - In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II. - In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

### **Simplified act**

Supreme Court of India

(1) There will be a Supreme Court of India that includes a Chief Justice of India and, unless Parliament decides otherwise, up to seven other Judges.

(2) Every Judge of the Supreme Court will be appointed by the President based on the recommendation of the National Judicial Appointments Commission (mentioned in article 124A) and will serve until they turn sixty-five years old.

Provided that -

(a) A Judge can resign by writing a letter to the President.

(b) A Judge can be removed from office as described in clause (4).

(2A) The age of a Supreme Court Judge will be determined by an authority and in a manner decided by Parliament.

(3) To be eligible to become a Supreme Court Judge, a person must be an Indian citizen and must meet one of the following criteria:

(a) Have been a Judge of a High Court (or multiple High Courts in succession) for at least five years; or

(b) Have been an advocate in a High Court (or multiple High Courts in succession) for at least ten years; or

(c) Be considered a distinguished jurist by the President.

Explanation I. - "High Court" refers to a High Court that has jurisdiction in any part of India, either now or at any time before the Constitution started.

Explanation II. - When calculating the time someone has been an advocate, any time they spent in a judicial position (not lower than a district judge) after becoming an advocate will be included.

(4) A Supreme Court Judge can only be removed from office by an order from the President. This can happen after each House of Parliament (Lok Sabha and Rajya Sabha) passes a resolution with a majority of the total members and at least two-thirds of the members present and voting, all in the same session, stating that the Judge has misbehaved or is incapable of performing their duties.

(5) Parliament can create laws to regulate how to present such a resolution and how to investigate and prove the misbehaviour or incapacity of a Judge as mentioned in clause (4).

(6) Every person appointed as a Supreme Court Judge must take an oath or make an affirmation before the President (or someone appointed by the President) before starting their duties. The form of the oath is set out in the Third Schedule.

(7) No one who has served as a Supreme Court Judge can practice law or act in any court or before any authority within India after their term.

Explanation using Example

Example 1:

Scenario: Appointment of a Supreme Court Judge

Situation: Mr. Arvind Kumar has been a judge in the Delhi High Court for 6 years. He is known for his integrity and has a commendable record of judgments.

Application of the Act:

According to Article 124(3)(a), Mr. Arvind Kumar qualifies for appointment as a Judge of the Supreme Court because he has been a judge of a High Court for more than five years.

The National Judicial Appointments Commission (NJAC) recommends Mr. Kumar for the position.

The President of India, following the recommendation of the NJAC, appoints Mr. Kumar as a Judge of the Supreme Court by issuing a warrant under his hand and seal.

Mr. Kumar will hold office until he attains the age of sixty-five years, as per Article 124(2).

Example 2:

Scenario: Resignation of a Supreme Court Judge

Situation: Justice Meera Sharma, a sitting judge of the Supreme Court, decides to resign due to personal reasons.

Application of the Act:

As per Article 124(2) proviso (a), Justice Meera Sharma can resign from her position.

She writes a resignation letter under her hand addressed to the President of India.

Upon receiving her resignation, the President accepts it, and Justice Sharma's resignation is formalized.

#### Example 3:

Scenario: Removal of a Supreme Court Judge

Situation: Allegations of misbehavior are raised against Justice Rajesh Verma, a sitting judge of the Supreme Court.

Application of the Act:

According to Article 124(4), a judge can only be removed on the grounds of proved misbehavior or incapacity.

An investigation is conducted as per the procedure regulated by Parliament under Article 124(5).

Both Houses of Parliament address the President, with each House supporting the removal by a majority of the total membership and by a majority of not less than two-thirds of the members present and voting.

The President then passes an order for the removal of Justice Rajesh Verma from his office.

#### Example 4:

Scenario: Oath of a Newly Appointed Supreme Court Judge

Situation: Ms. Priya Desai is appointed as a Judge of the Supreme Court.

Application of the Act:

Before entering upon her office, Ms. Priya Desai must make and subscribe an oath or affirmation.

As per Article 124(6), she takes the oath before the President of India or a person appointed by the President for this purpose.

The form of the oath is set out in the Third Schedule of the Constitution of India.

#### Example 5:

Scenario: Post-Retirement Restrictions on a Supreme Court Judge

Situation: Justice Anil Kapoor retires from the Supreme Court after reaching the age of sixty-five.

Application of the Act:

According to Article 124(7), Justice Anil Kapoor cannot plead or act in any court or before any authority within the territory of India after his retirement.

This ensures that there is no conflict of interest and maintains the integrity of the judiciary.

### **Article 124A: National Judicial Appointments Commission.**

National Judicial Appointments Commission

(1) There shall be a Commission to be known as the National Judicial Appointments Commission consisting of the following, namely:

- (a) the Chief Justice of India, Chairperson, ex officio;
- (b) two other senior Judges of the Supreme Court next to the Chief Justice of India-- Members, ex officio;
- (c) the Union Minister in charge of Law and Justice-- Member, ex officio;
- (d) two eminent persons to be nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People-- Members:

Provided that one of the eminent persons shall be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities or Women;

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) No act or proceedings of the National Judicial Appointments Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

### **Simplified act**

National Judicial Appointments Commission

(1) There will be a group called the National Judicial Appointments Commission. This group will include the following people:

- (a) The Chief Justice of India, who will be the Chairperson automatically;
- (b) Two senior Judges of the Supreme Court who are next in line after the Chief Justice of India-- Members automatically;
- (c) The Union Minister in charge of Law and Justice-- Member automatically;
- (d) Two well-known and respected people chosen by a committee made up of the Prime Minister, the Chief Justice of India, and the Leader of the Opposition in the House of the People (or if there is no Leader of the Opposition, then the Leader of the largest Opposition Party in the House of the People)-- Members:

One of these respected people must be from the Scheduled Castes, Scheduled Tribes, Other Backward Classes, Minorities, or Women;

These respected people will be chosen for a term of three years and cannot be chosen again for another term.

(2) The actions or decisions of the National Judicial Appointments Commission cannot be challenged or considered invalid just because there is a vacancy or some issue in the makeup of the Commission.

Explanation using Example

Example 1:

Scenario: Appointment of a Supreme Court Judge

Situation: The Supreme Court of India has a vacancy for a judge. The National Judicial Appointments Commission (NJAC) is responsible for recommending a candidate for this position.

Process:

The Chief Justice of India (CJI) chairs a meeting of the NJAC.

The two senior-most judges of the Supreme Court, next to the CJI, participate as members.

The Union Minister of Law and Justice also participates as a member.



The committee consisting of the Prime Minister, the CJI, and the Leader of Opposition nominates two eminent persons to be part of the NJAC. One of these eminent persons is from the Scheduled Castes.

The NJAC reviews the qualifications and background of several candidates.

After thorough deliberation, the NJAC recommends a candidate to the President of India for appointment as a Supreme Court judge.

Outcome: The President of India appoints the recommended candidate as a Supreme Court judge based on the NJAC's recommendation.

Example 2:

Scenario: Challenge to the Validity of NJAC Proceedings

Situation: A lawyer files a petition challenging the validity of a judge's appointment, claiming that there was a vacancy in the NJAC at the time of the recommendation.

Process:

The lawyer argues that the NJAC's recommendation is invalid because one of the eminent persons' positions was vacant during the decision-making process.

The Supreme Court reviews the petition and refers to Article 124A(2) of the Constitution of India.

Article 124A(2) states that no act or proceedings of the NJAC shall be questioned or invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

Outcome: The Supreme Court dismisses the petition, upholding the validity of the judge's appointment despite the vacancy in the NJAC, as per the constitutional provision.

### **Article 124B: Functions of Commission.**

It shall be the duty of the National Judicial Appointments Commission to -

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts and other Judges of High Courts;

- (b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court; and
- (c) ensure that the person recommended is of ability and integrity.

### **Simplified act**

The National Judicial Appointments Commission must -

- (a) suggest people for the positions of Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts, and other Judges of High Courts;
- (b) suggest moving Chief Justices and other Judges of High Courts from one High Court to another; and
- (c) make sure the suggested person is capable and honest.

Explanation using Example

Example 1:

Scenario: Appointment of a New Chief Justice of India

The National Judicial Appointments Commission (NJAC) is tasked with recommending a new Chief Justice of India. After a thorough review of eligible candidates, the NJAC identifies Justice Sharma, a senior judge of the Supreme Court, as a suitable candidate. The NJAC evaluates Justice Sharma's past judgments, integrity, and overall ability. Based on their assessment, they recommend Justice Sharma for the position of Chief Justice of India to the President of India. The President, following the recommendation, appoints Justice Sharma as the new Chief Justice of India.

Example 2:

Scenario: Transfer of a High Court Judge

Justice Rao is currently serving as a judge in the Karnataka High Court. Due to administrative reasons and to ensure a balanced distribution of judicial resources, the NJAC decides that Justice Rao should be transferred to the Kerala High Court. The NJAC reviews Justice Rao's performance, integrity, and ability before making the recommendation. They then recommend to the President of India that Justice Rao be transferred from the Karnataka High

Court to the Kerala High Court. The President approves the recommendation, and Justice Rao is subsequently transferred to the Kerala High Court.

Example 3:

Scenario: Ensuring Integrity and Ability in Judicial Appointments

The NJAC is in the process of recommending a new judge for the Bombay High Court. Among the candidates is Advocate Mehta, a well-known lawyer with a strong legal background. The NJAC conducts a detailed background check on Advocate Mehta, examining his past cases, professional conduct, and reputation in the legal community. They also consider feedback from senior judges and legal experts. After confirming that Advocate Mehta possesses the necessary ability and integrity, the NJAC recommends his appointment as a judge of the Bombay High Court. The President of India, acting on this recommendation, appoints Advocate Mehta as a judge of the Bombay High Court.

#### **Article 124C: Power of Parliament to make law.**

Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and empower the Commission to lay down by regulations the procedure for the discharge of its functions, the manner of selection of persons for appointment and such other matters as may be considered necessary by it.

#### **Simplified act**

Parliament can create laws to control how the Chief Justice of India and other Judges of the Supreme Court, as well as Chief Justices and other Judges of High Courts, are appointed.

Parliament can also give power to a Commission to make rules about how it will do its job, how people will be chosen for these judge positions, and any other important details.

Explanation using Example

Example 1:

Scenario: The Parliament of India decides to create a new law to streamline the appointment process of the Chief Justice of India (CJI) and other judges of the Supreme Court.

Application: Under Article 124C, the Parliament enacts a law that establishes a Judicial Appointments Commission. This Commission is tasked with creating a transparent and efficient procedure for selecting the CJI and other judges. The law specifies that the Commission will include members from the judiciary, executive, and eminent legal experts. The Commission is also given the authority to draft regulations detailing the selection criteria, interview processes, and timelines for appointments.

Outcome: This new law ensures that the appointment process is more structured and less prone to delays or controversies, thereby enhancing the efficiency and credibility of the judiciary.

Example 2:

Scenario: A new regulation is needed to address the increasing backlog of cases in the High Courts across India.

Application: Utilizing the power granted by Article 124C, the Parliament passes a law that empowers the Judicial Appointments Commission to create specific regulations for appointing additional judges to the High Courts. The Commission decides that retired judges with a proven track record of efficiency and integrity can be reappointed on a contractual basis to help clear the backlog. The regulations also include provisions for periodic performance reviews and mandatory retirement ages.

Outcome: The additional appointments help reduce the backlog of cases, ensuring faster delivery of justice. The performance reviews and contractual nature of the appointments maintain high standards of judicial conduct and efficiency.

## **Article 125: Salaries, etc., of Judges.**

Judges of the Supreme Court

(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

### **Simplified act**

#### Judges of the Supreme Court

(1) The salaries of the Judges of the Supreme Court will be decided by Parliament through a law. Until such a law is made, the salaries mentioned in the Second Schedule will be paid to them.

(2) Every Judge will get certain benefits, allowances, and rights related to leave and pension as decided by Parliament through a law. Until such a law is made, the benefits, allowances, and rights mentioned in the Second Schedule will apply:

However, once a Judge is appointed, their benefits, allowances, leave rights, or pension cannot be changed in a way that is worse for them.

#### Explanation using Example

##### Example 1:

Justice Rao has been appointed as a Judge of the Supreme Court of India. Upon his appointment, he is entitled to a salary as determined by the Parliament. Currently, the Parliament has not made any new provisions, so Justice Rao receives the salary specified in the Second Schedule of the Constitution. Additionally, Justice Rao enjoys certain privileges such as a government-provided residence, medical facilities, and travel allowances. These benefits are also specified in the Second Schedule until the Parliament decides otherwise. Importantly, once Justice Rao is appointed, his salary, privileges, and pension rights cannot be reduced or altered to his disadvantage.

##### Example 2:

Justice Mehta, a sitting Judge of the Supreme Court, is planning to take a leave of absence due to health reasons. According to Article 125, the leave of absence and pension rights for Supreme Court Judges are determined by the Parliament. Since no new law has been enacted, Justice Mehta's leave and pension entitlements are governed by the provisions in the Second Schedule. This means he can take leave as per the rules specified there, and his pension rights remain protected. Furthermore, if the Parliament decides to change the

leave or pension rules in the future, these changes cannot negatively impact Justice Mehta's existing entitlements.

### **Article 126: Appointment of acting Chief Justice.**

When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

### **Simplified act**

If the Chief Justice of India is not available because the position is empty or the Chief Justice is unable to do their job for any reason, another Judge from the Court will take over the duties.

The President will choose which Judge will take over these duties.

Explanation using Example

Example 1:

The Chief Justice of India, Justice Sharma, is scheduled to attend an international judicial conference in the United States for two weeks. During this period, the office of the Chief Justice will be vacant. To ensure that the Supreme Court continues to function smoothly, the President of India appoints Justice Rao, one of the senior judges of the Supreme Court, to perform the duties of the Chief Justice until Justice Sharma returns.

Example 2:

Chief Justice of India, Justice Mehta, falls seriously ill and is hospitalized for an extended period. Due to his inability to perform his duties, the President of India appoints Justice Kapoor, another senior judge of the Supreme Court, to act as the Chief Justice. Justice Kapoor will handle all responsibilities and duties of the Chief Justice until Justice Mehta recovers and is able to resume his duties.

### **Article 127: Appointment of ad hoc Judges.**

(1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the National Judicial Appointments Commission on a reference made to it by the Chief Justice of India, may with the previous consent of the President and after

consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

### **Simplified act**

(1) If there aren't enough Supreme Court judges available to hold or continue a session, the National Judicial Appointments Commission (NJAC) can step in. The Chief Justice of India can ask the NJAC to get permission from the President and consult with the Chief Justice of the relevant High Court. Then, they can request a qualified High Court judge to temporarily serve as a Supreme Court judge for as long as needed.

(2) The High Court judge who is asked to serve in the Supreme Court must prioritize this duty over other responsibilities. While serving in the Supreme Court, this judge will have all the powers, responsibilities, and privileges of a regular Supreme Court judge.

Explanation using Example

Example 1:

Scenario: The Supreme Court of India is hearing a critical case involving constitutional interpretation, but due to unforeseen circumstances, several Supreme Court judges are unavailable, and the court lacks the required quorum to proceed.

Application of Article 127:

The Chief Justice of India (CJI) realizes the quorum issue and refers the matter to the National Judicial Appointments Commission (NJAC).

The NJAC, after receiving the reference from the CJI, consults with the Chief Justice of the concerned High Court and seeks the President's consent.

With the President's approval, the NJAC requests a qualified High Court judge to serve as an ad hoc judge in the Supreme Court.

Justice Sharma, a senior judge from the Delhi High Court, is designated by the CJI to serve as an ad hoc judge in the Supreme Court for the duration of the case.

Justice Sharma prioritizes this duty over his High Court responsibilities and attends the Supreme Court sessions, exercising all the powers and duties of a Supreme Court judge until the case is concluded.

#### Example 2:

Scenario: A significant backlog of cases in the Supreme Court has led to delays in justice delivery. The Chief Justice of India identifies the need for additional judicial support to clear the backlog.

#### Application of Article 127:

The Chief Justice of India (CJI) makes a reference to the National Judicial Appointments Commission (NJAC) highlighting the need for additional judges to address the backlog.

The NJAC, after consulting with the Chief Justice of the concerned High Courts and obtaining the President's consent, identifies several qualified High Court judges to serve as ad hoc judges in the Supreme Court.

Judges from various High Courts, including Justice Patel from the Bombay High Court and Justice Reddy from the Madras High Court, are designated by the CJI to serve as ad hoc judges.

These judges temporarily leave their High Court duties and attend the Supreme Court sessions, exercising full jurisdiction and powers of Supreme Court judges.

With the additional support, the Supreme Court is able to expedite the hearing and resolution of pending cases, thereby reducing the backlog and improving the efficiency of the judiciary.

#### Example 3:

Scenario: During a national emergency, several Supreme Court judges are unavailable due to health issues, and the court is unable to function effectively.

#### Application of Article 127:



The Chief Justice of India (CJI) assesses the situation and determines that the Supreme Court cannot maintain its quorum.

The CJI refers the matter to the National Judicial Appointments Commission (NJAC) for immediate action.

The NJAC, after consulting with the Chief Justices of various High Courts and securing the President's consent, identifies suitable High Court judges to serve as ad hoc judges.

Justice Mehta from the Gujarat High Court and Justice Singh from the Punjab and Haryana High Court are designated by the CJI to serve as ad hoc judges in the Supreme Court.

These judges prioritize their Supreme Court duties and attend the sessions, ensuring that the Supreme Court continues to function and deliver justice during the emergency period.

**Article 128: Attendance of retired Judges at sittings of the Supreme Court.**

Notwithstanding anything in this Chapter, the National Judicial Appointments Commission may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

**Simplified act**

Despite anything else mentioned in this Chapter, the National Judicial Appointments Commission can, at any time, with the prior approval of the President, ask any person who has previously served as a Judge of the Supreme Court, the Federal Court, or a High Court and is qualified to be a Judge of the Supreme Court, to temporarily serve as a Judge of the Supreme Court. While serving, this person will receive allowances as decided by the

President and will have all the powers and privileges of a Supreme Court Judge, but will not be considered a permanent Judge of that Court:

Provided that nothing in this article forces any such person to serve as a Judge of that Court unless they agree to do so.

Explanation using Example

Example 1:

Justice Sharma, a retired Judge of the Supreme Court of India, is enjoying his retirement when the National Judicial Appointments Commission (NJAC) identifies a need for his expertise in a particularly complex case involving constitutional law. With the previous consent of the President of India, the NJAC requests Justice Sharma to sit and act as a Judge of the Supreme Court for this case. Justice Sharma agrees to the request. During his tenure for this case, he is entitled to allowances as determined by the President and has all the jurisdiction, powers, and privileges of a sitting Supreme Court Judge. However, he is not considered a permanent Judge of the Supreme Court.

Example 2:

Justice Mehta, who previously served as a Judge of the High Court and is qualified to be appointed as a Judge of the Supreme Court, is approached by the NJAC to assist with a backlog of cases in the Supreme Court. The NJAC obtains the President's consent before making the request. Justice Mehta consents to serve temporarily. While he is sitting and acting as a Judge of the Supreme Court, he receives allowances as specified by the President and exercises all the powers and privileges of a Supreme Court Judge. However, he retains his status as a retired Judge and is not considered a permanent member of the Supreme Court.

### **Article 129: Supreme Court to be a court of record.**

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

### **Simplified act**

The Supreme Court is an official court that keeps records of its decisions. It has all the powers that come with being such a court, including the ability to punish people who disrespect or disobey it.

Explanation using Example

#### Example 1:

Scenario: A journalist publishes an article alleging that a Supreme Court judge has taken a bribe to influence a case decision. The article is widely circulated and damages the reputation of the judiciary.

Application of Article 129: The Supreme Court, being a court of record, takes suo motu cognizance of the matter and initiates contempt proceedings against the journalist. The Court has the power to summon the journalist, conduct a hearing, and if found guilty, punish the journalist for contempt of court. This could include fines or imprisonment, depending on the severity of the contempt.

#### Example 2:

Scenario: During a high-profile case, a lawyer repeatedly disobeys the Supreme Court's orders and makes derogatory remarks about the judges in open court.

Application of Article 129: The Supreme Court, exercising its power as a court of record, initiates contempt proceedings against the lawyer. The Court holds a hearing to determine whether the lawyer's actions constitute contempt. If the lawyer is found guilty, the Supreme Court can impose sanctions, which may include suspension of the lawyer's license to practice, fines, or imprisonment.

#### Example 3:

Scenario: A citizen files a petition in the Supreme Court challenging a government policy. During the proceedings, the citizen makes false statements and submits forged documents to the Court.

Application of Article 129: The Supreme Court, as a court of record, identifies the false statements and forged documents. The Court initiates contempt proceedings against the citizen for attempting to mislead the Court and obstruct the course of justice. If found guilty, the citizen could face penalties such as fines or imprisonment, as determined by the Court.

#### Example 4:

Scenario: A social media influencer posts a video criticizing a Supreme Court judgment and uses offensive language against the judges.

Application of Article 129: The Supreme Court, recognizing the potential impact of the video on public perception of the judiciary, initiates contempt proceedings against the influencer. The Court conducts a hearing to assess

whether the content of the video constitutes contempt. If the influencer is found guilty, the Court can impose penalties, including fines or imprisonment, to uphold the dignity and authority of the judiciary.

### **Article 130: Seat of Supreme Court.**

The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

### **Simplified act**

The Supreme Court will usually be located in Delhi.

However, the Chief Justice of India can decide to have the Supreme Court sit in other places.

This decision needs to be approved by the President.

Explanation using Example

Example 1:

Rajesh, a resident of Chennai, wants to file a petition in the Supreme Court of India. He is concerned about the travel expenses and time it will take to go to Delhi. He learns that the Chief Justice of India, with the approval of the President, has recently designated Chennai as an additional seat for the Supreme Court. Rajesh can now file his petition and attend hearings in Chennai, making it more convenient and cost-effective for him.

Example 2:

An environmental NGO based in Mumbai wants to challenge a government policy that affects the Western Ghats. They are worried about the logistical challenges of traveling to Delhi for the Supreme Court hearings. However, they find out that the Chief Justice of India, with the President's approval, has appointed Mumbai as an additional place where the Supreme Court can sit. This allows the NGO to pursue their case without the burden of traveling to Delhi, ensuring better access to justice.

### **Article 131: Original jurisdiction of the Supreme Court.**

Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute:

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute.

### **Simplified act**

Subject to the rules of this Constitution, only the Supreme Court has the authority to handle any disputes:

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States,

if the dispute involves any question (whether about law or facts) that affects the existence or extent of a legal right:

However, this authority does not cover disputes that come from any treaty, agreement, covenant, engagement, sanad, or similar document that was made before this Constitution started and is still in effect, or that specifically says the Supreme Court should not handle such disputes.

Explanation using Example

Example 1:

Scenario: Dispute between the Government of India and the State of Karnataka over water sharing from the Cauvery River.

Details: The Government of India and the State of Karnataka are in disagreement over the allocation of water from the Cauvery River. Karnataka claims that the central government is not fairly distributing the water, which is crucial for its agricultural needs. The Government of India, on the other hand, argues that it is following the guidelines set by the Cauvery Water Disputes Tribunal.

Application of Article 131: Since this is a dispute between the Government of India and a State (Karnataka) involving a question of legal rights (water allocation), the Supreme Court has original jurisdiction to hear and decide this case.

#### Example 2:

Scenario: Dispute between the States of Maharashtra and Gujarat over the boundary demarcation.

Details: Maharashtra and Gujarat are in conflict over the precise boundary line between the two states. This dispute has arisen due to differing interpretations of historical documents and maps. Both states claim certain territories as their own, leading to administrative and governance issues.

Application of Article 131: This is a dispute between two states (Maharashtra and Gujarat) involving a question of fact and law (boundary demarcation), and thus, the Supreme Court has original jurisdiction to resolve this matter.

#### Example 3:

Scenario: Dispute between the Government of India, the State of Tamil Nadu, and the State of Kerala over the construction of a dam.

Details: The Government of India, along with the State of Tamil Nadu, plans to construct a dam on a river that flows through Kerala. Kerala opposes the construction, citing environmental concerns and potential harm to its local population. Tamil Nadu argues that the dam is essential for its water needs and power generation.

Application of Article 131: This is a dispute involving the Government of India and two states (Tamil Nadu and Kerala) on one side and another state (Kerala) on the other, involving questions of legal rights (construction and environmental impact). Therefore, the Supreme Court has original jurisdiction to adjudicate this dispute.

Example 4:

Scenario: Dispute between the States of Punjab and Haryana over the sharing of river waters.

Details: Punjab and Haryana are in conflict over the sharing of waters from the Sutlej-Yamuna Link canal. Punjab claims that it needs more water for its agricultural activities, while Haryana argues that it is not receiving its fair share as per the previous agreements.

Application of Article 131: This is a dispute between two states (Punjab and Haryana) involving a question of legal rights (water sharing), and thus, the Supreme Court has original jurisdiction to hear and decide this case.

**Article 131A: Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws: Omitted.**

Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 4 (with effect from 13-4-1978).

**Article 132: Appellate jurisdiction of the Supreme Court in appeals from High Courts in certain cases.**

Article - Appeals to the Supreme Court

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) \* \* \* \* \*

(3) Where such a certificate is given, \* \* \* any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided \* \* \*.

Explanation: For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

### **Simplified act**

Article - Appeals to the Supreme Court

(1) You can appeal to the Supreme Court if a High Court in India has made a final decision in a case (whether it's civil, criminal, or any other type of case) and the High Court certifies that the case involves an important question about interpreting the Constitution.

(2) \* \* \* \* \*

(3) If the High Court gives such a certificate, any party involved in the case can appeal to the Supreme Court, arguing that the important question mentioned was decided incorrectly.

Explanation: For this article, "final order" means an order that decides an issue in a way that, if it were decided in favor of the person appealing, would be enough to end the case.

Explanation using Example

Example 1:

Scenario: A civil dispute over property ownership.

Details: Mr. Sharma and Mr. Verma are involved in a legal dispute over the ownership of a piece of land. The High Court rules in favor of Mr. Sharma, stating that the land belongs to him based on the interpretation of certain constitutional provisions related to property rights.

Application of Article 132: Mr. Verma believes that the High Court's interpretation of the constitutional provisions is incorrect and involves a substantial question of law. He requests the High Court to certify the case under Article 134A, which the High Court grants. Mr. Verma then appeals to the Supreme Court, arguing that the High Court's decision on the constitutional interpretation was wrong.

Example 2:

Scenario: A criminal case involving the right to a fair trial.

Details: Ms. Gupta is convicted of a crime by the High Court. She argues that her right to a fair trial, as guaranteed by the Constitution, was violated during the proceedings. The High Court dismisses her appeal, upholding the conviction.

Application of Article 132: Ms. Gupta believes that her case involves a substantial question of law regarding the interpretation of her constitutional



right to a fair trial. She requests the High Court to certify the case under Article 134A. The High Court agrees and issues the certificate. Ms. Gupta then appeals to the Supreme Court, contending that the High Court's interpretation of her constitutional rights was incorrect and that her conviction should be overturned.

#### Example 3:

Scenario: A dispute over the interpretation of fundamental rights.

Details: A group of citizens files a public interest litigation (PIL) in the High Court, challenging a state law that they believe infringes on their fundamental rights to freedom of speech and expression. The High Court rules that the state law is constitutional and does not violate their rights.

Application of Article 132: The citizens believe that the High Court's decision involves a substantial question of law regarding the interpretation of their fundamental rights under the Constitution. They request the High Court to certify the case under Article 134A. The High Court grants the certification. The citizens then appeal to the Supreme Court, arguing that the High Court's interpretation of their fundamental rights was incorrect and that the state law should be struck down.

#### Example 4:

Scenario: A case involving the interpretation of constitutional amendments.

Details: A political party challenges a recent constitutional amendment in the High Court, arguing that it alters the basic structure of the Constitution. The High Court upholds the amendment, stating that it does not violate the basic structure doctrine.

Application of Article 132: The political party believes that the High Court's decision involves a substantial question of law regarding the interpretation of the basic structure doctrine and the validity of constitutional amendments. They request the High Court to certify the case under Article 134A. The High Court agrees and issues the certificate. The political party then appeals to the Supreme Court, contending that the High Court's interpretation was incorrect and that the amendment should be invalidated.

**Article 133: Appellate jurisdiction of the Supreme Court in appeals from High Courts in regard to civil matters.**

## Appeal to the Supreme Court

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under article 134A -

(a) that the case involves a substantial question of law of general importance; and

(b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

### **Simplified act**

## Appeal to the Supreme Court

(1) You can appeal to the Supreme Court from any judgment, decree, or final order in a civil case from a High Court in India if the High Court certifies under article 134A that:

(a) the case involves an important question of law that affects many people; and

(b) the High Court believes that this question should be decided by the Supreme Court.

(2) Even if article 132 says otherwise, any party appealing to the Supreme Court under point (1) can argue that an important question about the interpretation of the Constitution has been wrongly decided.

(3) Despite what this article says, you cannot appeal to the Supreme Court from the judgment, decree, or final order of a single Judge of a High Court unless Parliament makes a law that allows it.

## Explanation using Example

Example 1:

Mr. Sharma owns a piece of land in Uttar Pradesh. He enters into a contract with Mr. Verma to sell this land. However, a dispute arises regarding the terms of the contract, and Mr. Verma files a civil suit in the Allahabad High Court. The High Court rules in favor of Mr. Verma, but Mr. Sharma believes that the judgment involves a substantial question of law of general importance regarding the interpretation of contract law.

Mr. Sharma requests the High Court to certify the case under Article 134A, stating that the question of law needs to be decided by the Supreme Court. The High Court agrees and certifies the case. Mr. Sharma then files an appeal to the Supreme Court under Article 133, seeking a final decision on the substantial question of law.

#### Example 2:

Ms. Gupta is involved in a property dispute with her neighbor, Mr. Singh, in Maharashtra. The Bombay High Court issues a final order in favor of Mr. Singh. Ms. Gupta believes that the High Court has wrongly interpreted a constitutional provision related to property rights.

Ms. Gupta requests the High Court to certify the case under Article 134A, arguing that the interpretation of the Constitution needs to be reviewed by the Supreme Court. The High Court certifies the case, and Ms. Gupta files an appeal to the Supreme Court under Article 133. In her appeal, she also argues that the High Court has wrongly decided a substantial question of law regarding the interpretation of the Constitution.

#### Example 3:

A large corporation, XYZ Ltd., is involved in a complex civil litigation case with a small business, ABC Pvt. Ltd., in the Delhi High Court. The High Court issues a final decree in favor of XYZ Ltd. ABC Pvt. Ltd. believes that the case involves a substantial question of law of general importance concerning corporate governance and minority shareholder rights.

ABC Pvt. Ltd. requests the High Court to certify the case under Article 134A, stating that the question of law needs to be decided by the Supreme Court. The High Court agrees and certifies the case. ABC Pvt. Ltd. then files an appeal to the Supreme Court under Article 133, seeking a final decision on the substantial question of law.

#### Example 4:

A non-profit organization, Save the Environment, files a public interest litigation (PIL) in the Madras High Court against a large industrial company, alleging environmental violations. The High Court issues a final order in favor of the industrial company. Save the Environment believes that the case involves a substantial question of law of general importance regarding environmental protection and sustainable development.

Save the Environment requests the High Court to certify the case under Article 134A, arguing that the question of law needs to be decided by the Supreme Court. The High Court certifies the case, and Save the Environment files an appeal to the Supreme Court under Article 133, seeking a final decision on the substantial question of law.

### **Article 134: Appellate jurisdiction of the Supreme Court in regard to criminal matters.**

#### Appeal to the Supreme Court

(1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court -

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) certifies under article 134A that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

### **Simplified act**

#### Appeal to the Supreme Court

(1) You can appeal to the Supreme Court from any judgment, final order, or sentence in a criminal case decided by a High Court in India if the High Court has:

(a) reversed a previous decision that found someone not guilty and instead sentenced them to death; or

(b) taken over a case from a lower court, found the person guilty, and sentenced them to death; or

(c) certified that the case is important enough to be heard by the Supreme Court under article 134A:

However, an appeal under point (c) must follow the rules set out in article 145(1) and any conditions the High Court may require.

(2) Parliament can make laws to give the Supreme Court more powers to hear appeals from any judgment, final order, or sentence in a criminal case decided by a High Court in India, as long as these laws specify the conditions and limitations.

Explanation using Example

Example 1:

Rajesh was initially acquitted by the trial court in a murder case. However, the victim's family appealed to the High Court, which reversed the acquittal and sentenced Rajesh to death. Rajesh, believing that the High Court's decision was unjust, decided to appeal to the Supreme Court. Under Article 134(1)(a) of the Constitution of India, Rajesh has the right to appeal to the Supreme Court because the High Court reversed his acquittal and sentenced him to death.

Example 2:

Meena was accused of a serious crime and her case was being heard in a subordinate court. The High Court decided to withdraw the case from the subordinate court and try it itself. After the trial, the High Court convicted Meena and sentenced her to death. Meena, feeling that the High Court's decision was unfair, sought to appeal to the Supreme Court. According to Article 134(1)(b) of the Constitution of India, Meena can appeal to the Supreme Court because the High Court withdrew the case for trial before itself, convicted her, and sentenced her to death.

Example 3:

Suresh was convicted of a crime by the High Court, but the case involved complex legal questions that warranted further examination. The High Court certified under Article 134A that Suresh's case was fit for appeal to the Supreme Court. Suresh then appealed to the Supreme Court. Under Article 134(1)(c) of the Constitution of India, Suresh's appeal is valid because the High Court certified that his case is fit for appeal to the Supreme Court.

Example 4:

The Parliament passed a new law that allows the Supreme Court to hear appeals from any final order or sentence in a criminal proceeding of a High Court, even if the case does not involve a death sentence. Ramesh, who was sentenced to life imprisonment by the High Court, decided to appeal to the Supreme Court under this new law. According to Article 134(2) of the Constitution of India, the Supreme Court can entertain Ramesh's appeal because the Parliament has conferred additional powers on the Supreme Court to hear such appeals.

#### **Article 134A: Certificate for appeal to the Supreme Court.**

Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134, -

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.

#### **Simplified act**

Every High Court, when it gives a judgment, decree, final order, or sentence as mentioned in clause (1) of article 132, clause (1) of article 133, or clause (1) of article 134, -

(a) can decide on its own if it wants to; and

(b) must decide if someone affected by the decision asks for it right after the judgment, decree, final order, or sentence is given,

whether a certificate mentioned in clause (1) of article 132, clause (1) of article 133, or sub-clause (c) of clause (1) of article 134 can be given for that case.

Explanation using Example

Example 1:

Scenario: A High Court in India has just delivered a final judgment in a civil case involving a substantial question of law regarding the interpretation of the Constitution.

Application of Article 134A:

Step 1: The High Court, after delivering the judgment, considers whether this case involves a substantial question of law as to the interpretation of the Constitution.

Step 2: The High Court, on its own motion, decides that this case is significant enough to be appealed to the Supreme Court.

Step 3: The High Court issues a certificate under Article 134A, allowing the aggrieved party to appeal to the Supreme Court.

Example 2:

Scenario: A High Court has passed a final order in a criminal case where the accused has been sentenced to life imprisonment. The accused believes there has been a grave miscarriage of justice.

Application of Article 134A:

Step 1: Immediately after the High Court passes the sentence, the lawyer of the accused makes an oral application requesting a certificate for appeal to the Supreme Court.

Step 2: The High Court is obligated to determine whether the case qualifies for a certificate under Article 134(1)(c), which pertains to substantial questions of law or gross miscarriage of justice.

Step 3: After consideration, the High Court decides that the case does indeed involve significant legal questions and issues the certificate.

Step 4: With this certificate, the accused can now appeal the High Court's decision to the Supreme Court.

#### Example 3:

Scenario: A High Court has issued a final decree in a property dispute case. One of the parties believes that the case involves a substantial question of law of general importance.

#### Application of Article 134A:

Step 1: The aggrieved party's lawyer makes an oral application immediately after the decree is passed, requesting a certificate for appeal to the Supreme Court.

Step 2: The High Court evaluates whether the case involves a substantial question of law of general importance under Article 133(1).

Step 3: The High Court determines that the case does involve such a question and issues the certificate.

Step 4: The aggrieved party can now appeal the High Court's decree to the Supreme Court.

#### Example 4:

Scenario: A High Court has delivered a final judgment in a case involving the interpretation of a central law that affects multiple states.

#### Application of Article 134A:

Step 1: The High Court, recognizing the broader implications of the case, decides on its own motion to consider whether a certificate for appeal to the Supreme Court should be issued.

Step 2: The High Court determines that the case involves a substantial question of law of general importance.

Step 3: The High Court issues the certificate under Article 134A.

Step 4: The parties involved in the case can now appeal to the Supreme Court, which will address the substantial question of law.

#### Example 5:



Scenario: A High Court has passed a final order in a case involving the interpretation of a state law that conflicts with a central law.

Application of Article 134A:

Step 1: The aggrieved party's lawyer makes an oral application immediately after the order is passed, requesting a certificate for appeal to the Supreme Court.

Step 2: The High Court evaluates whether the case involves a substantial question of law as to the interpretation of the Constitution or a conflict between state and central laws.

Step 3: The High Court determines that the case does involve such a question and issues the certificate.

Step 4: The aggrieved party can now appeal the High Court's order to the Supreme Court.

**Article 135: Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.**

Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

**Simplified act**

Until Parliament makes a new law, the Supreme Court will have the authority and power over any issue that is not covered by article 133 or article 134, as long as the Federal Court had the authority and power over that issue right before this Constitution started, according to any existing law.

Explanation using Example

Example 1:

Scenario: A dispute arises between two states, Maharashtra and Karnataka, over the sharing of river water from the Krishna River.

Application of Article 135: Before the Constitution of India came into effect, such disputes were handled by the Federal Court. According to Article 135,

since Parliament has not made any specific law regarding this matter, the Supreme Court now has the jurisdiction to hear and decide on this dispute. The Supreme Court will exercise the same powers that the Federal Court had before the Constitution was enacted.

Example 2:

Scenario: A case involves a significant question of law regarding the interpretation of a pre-constitutional statute that was previously under the jurisdiction of the Federal Court.

Application of Article 135: In this situation, the Supreme Court will have the authority to interpret the pre-constitutional statute, as the Federal Court would have done before the Constitution came into effect. Since Parliament has not provided otherwise, the Supreme Court will exercise the jurisdiction and powers that were originally vested in the Federal Court to resolve this legal question.

### **Article 136: Special leave to appeal by the Supreme Court.**

Special Leave to Appeal

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

### **Simplified act**

Special Permission to Appeal

(1) Despite what is mentioned in this Chapter, the Supreme Court has the power to allow a special request to appeal against any decision, ruling, judgment, sentence, or order given by any court or tribunal in India.

(2) However, this special permission does not apply to any decision, ruling, judgment, sentence, or order given by any court or tribunal that is set up under laws related to the Armed Forces.

Explanation using Example

#### Example 1:

Scenario: Rajesh, a resident of Mumbai, was involved in a property dispute with his neighbor. The local civil court ruled in favor of his neighbor, and the High Court upheld this decision. Rajesh believes that there was a significant error in the interpretation of the law and that his fundamental rights were violated.

Application of Article 136: Rajesh can file a petition for special leave to appeal to the Supreme Court under Article 136. The Supreme Court, using its discretion, may decide to hear Rajesh's case if it finds that there is a substantial question of law or a gross miscarriage of justice.

#### Example 2:

Scenario: Priya, a software engineer in Bangalore, was convicted of a crime she did not commit. The trial court sentenced her to five years in prison, and the High Court dismissed her appeal. Priya has new evidence that could prove her innocence.

Application of Article 136: Priya can approach the Supreme Court with a special leave petition under Article 136, requesting the Court to review her case. If the Supreme Court finds merit in her petition, it may grant special leave to appeal and re-examine the evidence and legal aspects of her case.

#### Example 3:

Scenario: A company in Delhi was fined heavily by a tribunal for violating environmental regulations. The company believes that the tribunal's decision was based on an incorrect interpretation of the law and that the fine is disproportionate.

Application of Article 136: The company can file a special leave petition to the Supreme Court under Article 136, seeking to challenge the tribunal's decision. The Supreme Court may grant special leave to appeal if it considers that the case involves a significant question of law or a potential miscarriage of justice.

#### Example 4:

Scenario: An army officer was court-martialed and sentenced to dismissal from service for alleged misconduct. The officer believes that the court-martial proceedings were unfair and biased.

Application of Article 136: In this case, Article 136(2) applies, which states that the Supreme Court's special leave to appeal does not extend to judgments or orders made by courts or tribunals related to the Armed Forces. Therefore, the officer cannot seek special leave to appeal to the Supreme Court under Article 136 for this matter.

### **Article 137: Review of judgments or orders by the Supreme Court.**

Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

### **Simplified act**

If there are no other laws made by Parliament or rules under article 145 that say otherwise, the Supreme Court can re-examine any judgment or order it has given.

Explanation using Example

Example 1:

Rajesh was convicted of a serious crime by the Supreme Court of India, and a judgment was pronounced against him. After the judgment, new evidence came to light that could potentially prove Rajesh's innocence. Rajesh's lawyer filed a petition for a review of the judgment under Article 137 of the Constitution of India. The Supreme Court, considering the new evidence and the provisions of any law made by Parliament or rules under Article 145, decided to review the judgment. Upon review, the Supreme Court found the new evidence credible and acquitted Rajesh.

Example 2:

Meera was involved in a civil dispute over property ownership, and the Supreme Court passed an order in favor of the opposing party. Meera believed that there was a significant error in the interpretation of the law in the Supreme Court's order. She filed a review petition under Article 137, arguing that the error had led to an unjust decision. The Supreme Court, adhering to the provisions of any law made by Parliament or rules under Article 145, agreed to review the order. After re-evaluating the legal arguments, the Supreme Court acknowledged the error and modified its original order, thereby granting relief to Meera.

### **Article 138: Enlargement of the jurisdiction of the Supreme Court.**

(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

### **Simplified act**

(1) The Supreme Court can handle more types of cases and have more authority over issues listed in the Union List if the Parliament passes a law giving it those powers.

(2) The Supreme Court can also handle more types of cases and have more authority over any issue if the Government of India and the Government of any State agree to it, as long as the Parliament passes a law allowing the Supreme Court to have those powers.

Explanation using Example

Example 1:

Scenario: The Parliament of India passes a new law regarding cybercrimes, which is listed under the Union List. This law confers additional powers to the Supreme Court to handle cases related to cybercrimes.

Application: A major cybercrime case involving hacking of government websites and theft of sensitive data is brought before the Supreme Court. Due to the new law passed by Parliament, the Supreme Court now has the jurisdiction to hear and decide on this case, even though it was not originally within its jurisdiction.

Example 2:

Scenario: The Government of India and the Government of Maharashtra enter into a special agreement to address a complex inter-state water dispute. Parliament passes a law allowing the Supreme Court to exercise jurisdiction over this specific matter.

Application: A dispute arises between Maharashtra and Karnataka over the sharing of water from a river that flows through both states. Normally, such disputes might be handled by a tribunal or a lower court. However, due to the special agreement and the subsequent law passed by Parliament, the Supreme Court is given the authority to hear and resolve this particular water dispute.

**Article 139: Conferment on the Supreme Court of powers to issue certain writs.**

Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

**Simplified act**

Parliament can make laws that give the Supreme Court the authority to issue various types of legal commands or orders. These include:

Habeas Corpus: An order to bring a person who has been detained to court to determine if the detention is lawful.

Mandamus: An order directing a public official or government body to perform a duty they are legally obligated to complete.

Prohibition: An order stopping a lower court or tribunal from doing something that exceeds its powers.

Quo Warranto: An order questioning the legal right of a person to hold a public office.

Certiorari: An order to review the decision of a lower court or tribunal.

These powers can be used for purposes other than those specified in clause (2) of article 32.

Explanation using Example

Example 1:

Ravi, a resident of Delhi, is detained by the police without any formal charges or trial. His family believes that his detention is illegal and violates his fundamental rights. They approach the Supreme Court under Article 139, seeking a writ of habeas corpus. The Supreme Court, empowered by Article

139, issues a writ of habeas corpus, directing the police to produce Ravi before the court and justify his detention. If the police fail to provide a valid reason, Ravi must be released immediately.

Example 2:

A public interest group discovers that a government official, Mr. Sharma, is holding a public office without the necessary qualifications required by law. They file a petition in the Supreme Court under Article 139, requesting a writ of quo warranto. The Supreme Court, using its powers under Article 139, issues a writ of quo warranto, asking Mr. Sharma to show by what authority he holds the office. If Mr. Sharma cannot prove his eligibility, he will be removed from the position.

Example 3:

A non-profit organization finds that a government agency is not fulfilling its legal duties to provide clean drinking water to a village in Maharashtra. They approach the Supreme Court under Article 139, seeking a writ of mandamus. The Supreme Court, empowered by Article 139, issues a writ of mandamus, directing the government agency to take immediate action to ensure the supply of clean drinking water to the village.

Example 4:

A company in Bangalore is operating a factory that is causing severe environmental pollution, violating environmental laws. A local environmental group files a petition in the Supreme Court under Article 139, seeking a writ of prohibition. The Supreme Court, using its powers under Article 139, issues a writ of prohibition, ordering the company to stop its polluting activities until it complies with environmental regulations.

Example 5:

A citizen of Kolkata discovers that a lower court has passed a judgment without following proper legal procedures, causing a miscarriage of justice. They approach the Supreme Court under Article 139, seeking a writ of certiorari. The Supreme Court, empowered by Article 139, issues a writ of certiorari, calling for the records of the lower court's proceedings and quashing the improper judgment.

**Article 139A: Transfer of certain cases.**

(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

### **Simplified act**

(1) If there are cases with the same or very similar legal questions being considered by the Supreme Court and one or more High Courts, or by two or more High Courts, and the Supreme Court believes that these questions are important for the general public, the Supreme Court can take over these cases from the High Courts and decide on them itself:

\_However, after deciding on these legal questions, the Supreme Court can send the case back to the High Court it took it from, along with its judgment. The High Court must then continue with the case based on the Supreme Court's judgment.\_

(2) The Supreme Court can also move any case, appeal, or other legal proceedings from one High Court to another High Court if it thinks it is necessary for justice.

Explanation using Example

Example 1:

Scenario: A case involving the interpretation of a new tax law is pending in the Supreme Court of India. Simultaneously, similar cases are pending in the High Courts of Delhi, Mumbai, and Chennai. The question of law in all these cases is



whether the new tax law violates the fundamental rights guaranteed by the Constitution of India.

Application of Article 139A(1): The Supreme Court, recognizing that the question of law is of substantial general importance, decides to withdraw the cases from the High Courts of Delhi, Mumbai, and Chennai. The Supreme Court consolidates these cases and hears them together to ensure a uniform interpretation of the new tax law. After delivering its judgment, the Supreme Court sends the cases back to the respective High Courts with instructions to dispose of the cases in accordance with its judgment.

Example 2:

Scenario: A high-profile criminal case involving multiple jurisdictions is pending in the High Courts of Karnataka and Tamil Nadu. The case has garnered significant media attention and there are concerns about the impartiality of the proceedings due to local influences.

Application of Article 139A(2): The Supreme Court, considering the ends of justice, decides to transfer the case from the High Court of Karnataka to the High Court of Delhi. This transfer is deemed necessary to ensure a fair trial and to mitigate any local biases that might affect the proceedings. The Supreme Court issues an order transferring the case, and the High Court of Delhi takes over the proceedings from the High Court of Karnataka.

### **Article 140: Ancillary powers of the Supreme Court.**

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

### **Simplified act**

Parliament can create laws to give the Supreme Court extra powers.

These extra powers must not go against anything in the Constitution.

The purpose of these extra powers is to help the Supreme Court do its job better.

These powers are meant to help the Supreme Court handle the responsibilities given to it by the Constitution.

Explanation using Example

Example 1:

The Parliament passes a law that allows the Supreme Court to establish specialized benches for handling environmental cases. This supplemental power is not inconsistent with the Constitution and is deemed necessary to enable the Court to more effectively exercise its jurisdiction over environmental matters, which are becoming increasingly complex and frequent.

Example 2:

The Parliament enacts a law that grants the Supreme Court the authority to appoint independent experts in cases involving complex financial fraud. This supplemental power helps the Court to better understand intricate financial details and make more informed decisions, thereby enhancing its ability to exercise its jurisdiction in such cases.

**Article 141: Law declared by Supreme Court to be binding on all courts.**

The Law Declared by the Supreme Court

The law declared by the Supreme Court shall be binding on all courts within the territory of India.

**Simplified act**

The Law Declared by the Supreme Court

The decisions made by the Supreme Court must be followed by all other courts in India.

Explanation using Example

Example 1:

Scenario: The Supreme Court of India declares that the right to privacy is a fundamental right under the Constitution of India.

Application: Following this declaration, a lower court in Delhi is hearing a case where an individual's private data was leaked by a company without consent. The lower court must apply the Supreme Court's ruling on the right to privacy

and rule in favor of the individual, recognizing the violation of their fundamental right to privacy.

Example 2:

Scenario: The Supreme Court of India rules that triple talaq (instant divorce) is unconstitutional and invalid.

Application: A family court in Mumbai is dealing with a case where a husband has given his wife triple talaq. The family court must follow the Supreme Court's ruling and declare the triple talaq invalid, ensuring that the wife's marital status remains unchanged and she retains her legal rights as a wife.

Example 3:

Scenario: The Supreme Court of India decides that reservations in promotions for government jobs are permissible under certain conditions.

Application: A High Court in Karnataka is hearing a case where a government employee is challenging the reservation in promotions policy of the state government. The High Court must adhere to the Supreme Court's decision and evaluate the policy based on the conditions laid down by the Supreme Court, ensuring that the policy complies with the constitutional guidelines.

Example 4:

Scenario: The Supreme Court of India rules that the practice of manual scavenging is illegal and orders strict enforcement of laws prohibiting it.

Application: A district court in Uttar Pradesh is dealing with a case where a municipality is accused of employing manual scavengers. The district court must follow the Supreme Court's ruling and hold the municipality accountable, ensuring that the practice is stopped and the laws are enforced.

Example 5:

Scenario: The Supreme Court of India declares that Section 377 of the Indian Penal Code, which criminalized consensual homosexual acts, is unconstitutional.

Application: A lower court in Chennai is hearing a case where two adults are being prosecuted under Section 377 for consensual homosexual acts. The lower court must dismiss the charges against the individuals, following the Supreme Court's ruling that such acts are not criminal offenses.

## **Article 142: Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.**

### Supreme Court Jurisdiction

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

### **Simplified act**

### Supreme Court Jurisdiction

(1) The Supreme Court can make any decision or order needed to ensure complete justice in any case it is handling. These decisions or orders will be enforceable across all of India in a way that is set by laws made by Parliament. Until such laws are made, the President can decide how they should be enforced.

(2) As long as it follows any laws made by Parliament, the Supreme Court has the power across all of India to:

Order someone to appear in court,

Require the discovery or production of documents,

Investigate or punish anyone who disrespects the court.

### Explanation using Example

#### Example 1:

Scenario: A landmark environmental case is brought before the Supreme Court of India, where a large corporation is accused of causing significant pollution to a river, affecting thousands of residents.

Application of Article 142: The Supreme Court, in its jurisdiction, determines that to ensure complete justice, the corporation must not only cease its polluting activities but also undertake a comprehensive cleanup of the river. The Court passes a decree ordering the corporation to pay for the cleanup and to compensate the affected residents. This decree is enforceable throughout India, ensuring that the corporation complies with the order regardless of where its operations are located.

Example 2:

Scenario: A high-profile corruption case involves a senior government official who has been accused of embezzling public funds. The case is complex, with crucial evidence scattered across various states.

Application of Article 142: The Supreme Court, to ensure complete justice, orders the production of all relevant documents from different state departments and summons key witnesses from across the country. Additionally, the Court orders an investigation into the contempt of court by individuals attempting to obstruct justice. These orders are enforceable throughout India, ensuring that all necessary evidence and testimonies are brought before the Court, and any attempts to hinder the judicial process are addressed.

### **Article 143: Power of the President to consult the Supreme Court.**

(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in \* \* \* the proviso to article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

### **Simplified act**

(1) If the President thinks that a legal or factual question has come up, or might come up, and it's really important for the public, he can ask the Supreme Court for its opinion on the matter. The Supreme Court will then look

into it and give its opinion to the President after holding any hearings it considers necessary.

(2) Even if there are other rules in place, the President can ask the Supreme Court for its opinion on certain disputes mentioned in Article 131. The Supreme Court will then look into the dispute and give its opinion to the President after holding any hearings it considers necessary.

#### Explanation using Example

##### Example 1:

Scenario: The Government of India is considering implementing a new nationwide policy on data privacy that could potentially conflict with existing laws on freedom of speech and expression.

Application of Article 143: The President of India, recognizing the significant public importance and potential legal conflicts, decides to seek the opinion of the Supreme Court. The President refers the question to the Supreme Court, asking whether the proposed data privacy policy would be constitutionally valid and how it might affect existing laws on freedom of speech and expression.

Outcome: The Supreme Court conducts hearings, considers various legal arguments, and provides its opinion to the President. The opinion helps the government to understand the constitutional implications and make informed decisions about the policy.

##### Example 2:

Scenario: A dispute arises between two states, Maharashtra and Karnataka, over the sharing of water from a river that flows through both states. The dispute has led to significant public unrest and is of great public importance.

Application of Article 143: The President of India, acknowledging the critical nature of the dispute and its impact on the public, decides to refer the matter to the Supreme Court for its opinion. The President asks the Supreme Court to provide its opinion on the legal aspects of the water-sharing agreement and the rights of each state.

Outcome: The Supreme Court holds hearings, examines the legal and factual issues, and reports its opinion to the President. The opinion provides a legal framework for resolving the dispute and helps the states to negotiate a fair and equitable solution.

## **Article 144: Civil and judicial authorities to act in aid of the Supreme Court.**

All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

### **Simplified act**

All government and court officials in India must help the Supreme Court.

Explanation using Example

Example 1:

Scenario: The Supreme Court of India has issued a directive to the state government of Maharashtra to ensure the protection of a particular forest area that is under threat from illegal logging activities.

Application of Article 144:

The state government of Maharashtra, including its forest department and police, must take all necessary actions to comply with the Supreme Court's directive.

This could involve increasing patrolling in the forest area, arresting individuals involved in illegal logging, and implementing stricter regulations to prevent further damage.

If the state government fails to act, it would be in violation of Article 144, as it is required to aid the Supreme Court in enforcing its orders.

Example 2:

Scenario: The Supreme Court of India has ordered the Central Bureau of Investigation (CBI) to investigate a high-profile corruption case involving a senior government official.

Application of Article 144:

The CBI, as a civil authority, must prioritize and conduct a thorough investigation as per the Supreme Court's instructions.

This includes gathering evidence, interviewing witnesses, and preparing a detailed report to be submitted to the Supreme Court.

Other judicial authorities, such as lower courts, must also cooperate by providing necessary warrants or permissions required for the investigation.

Any obstruction or non-cooperation by the CBI or other authorities would be against the mandate of Article 144, which obligates them to assist the Supreme Court.

#### Example 3:

Scenario: The Supreme Court has ruled that a particular law passed by the state of Tamil Nadu is unconstitutional and must be repealed.

#### Application of Article 144:

The legislative and executive branches of the Tamil Nadu government must take immediate steps to repeal the law as directed by the Supreme Court.

This could involve calling a special session of the state legislature to pass a bill repealing the law.

The judiciary in Tamil Nadu must also ensure that any ongoing cases or actions based on the now-unconstitutional law are halted.

Failure to act in accordance with the Supreme Court's ruling would be a breach of Article 144, which requires all civil and judicial authorities to support the Supreme Court's decisions.

#### Example 4:

Scenario: The Supreme Court has ordered the Election Commission of India to ensure free and fair elections in a state where there have been allegations of electoral fraud.

#### Application of Article 144:

The Election Commission must implement measures such as deploying additional observers, ensuring transparency in the voting process, and taking action against any reported malpractices.

Local police and administrative authorities must assist the Election Commission by maintaining law and order during the election period.

Any resistance or failure to comply with the Supreme Court's order by these authorities would be a violation of Article 144, which mandates their cooperation with the Supreme Court.



**Article 144A: Special provisions as to disposal of questions relating to constitutional validity of laws: Omitted.**

Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 5 (with effect from 13-4-1978).

**Simplified act**

Removed by the Constitution (Forty-third Amendment) Act, 1977, section 5 (effective from April 13, 1978).

Explanation using Example

Example 1:

Scenario: A citizen, Mr. Sharma, believes that a new state law imposing restrictions on internet usage violates his fundamental rights under the Constitution of India. He decides to challenge the constitutional validity of this law in the Supreme Court.

Application: Before the Constitution (Forty-third Amendment) Act, 1977, Article 144A would have provided special provisions for how such questions regarding the constitutional validity of laws should be handled. However, since Article 144A has been omitted, the Supreme Court will follow the general procedures laid out in the Constitution and other relevant laws to address Mr. Sharma's challenge.

Example 2:

Scenario: A state government enacts a law that mandates a specific dress code for all public school students. A group of parents believes this law infringes on their children's right to freedom of expression and decides to file a petition in the High Court questioning the constitutional validity of the law.

Application: With Article 144A omitted, the High Court will not have any special provisions from this article to guide the disposal of the question regarding the constitutional validity of the law. Instead, the court will rely on the general judicial review process and other constitutional provisions to determine whether the state law violates the Constitution.

**Article 145: Rules of Court, etc.**

Subject to the provisions of any law made by Parliament

The Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including:

- (a) rules as to the persons practising before the Court;
  - (b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
  - (c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;
  - (cc) rules as to the proceedings in the Court under article 139A;
  - (d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;
  - (e) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review are to be entered;
  - (f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;
  - (g) rules as to the granting of bail;
  - (h) rules as to stay of proceedings;
  - (i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;
  - (j) rules as to the procedure for inquiries referred to in clause (1) of article 317.
- (2) Subject to the provisions of \* \* \* clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.
- (3) \* \* \* The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

### **Simplified act**

Subject to the provisions of any law made by Parliament

The Supreme Court can make rules about how it operates, but it needs the President's approval. These rules can cover:

- (a) who can practice law in the Supreme Court;
- (b) how appeals and other related matters are handled, including deadlines for filing appeals;
- (c) how the Court handles cases to enforce rights given by Part III of the Constitution;
- (cc) how the Court handles cases under article 139A;
- (d) how the Court handles appeals under sub-clause (c) of clause (1) of article 134;
- (e) the conditions and procedures for reviewing the Court's judgments or orders, including deadlines for review applications;
- (f) the costs and fees related to Court proceedings;

- (g) the rules for granting bail;
  - (h) the rules for pausing proceedings;
  - (i) how the Court quickly deals with appeals that seem frivolous or meant to delay;
  - (j) the procedure for inquiries under clause (1) of article 317.
- (2) The rules can also set the minimum number of Judges needed for any purpose and outline the powers of single Judges and smaller groups of Judges, subject to certain conditions.
- (3) For cases involving important questions about interpreting the Constitution or for hearings under article 143, at least five Judges must be present:
- Provided that if a smaller group of Judges is hearing an appeal and they find that it involves an important constitutional question, they must refer this question to a larger group of at least five Judges. The smaller group will then decide the appeal based on the larger group's opinion.
- (4) The Supreme Court must deliver all judgments in open Court, and any report under article 143 must also be given in open Court.
- (5) A judgment or opinion from the Supreme Court must have the agreement of the majority of Judges present at the hearing. However, Judges who disagree can still give their own separate opinions.

#### Explanation using Example

##### Example 1:

Scenario: A lawyer wants to practice in the Supreme Court of India.

Application of the Act: Under Article 145(a), the Supreme Court has the authority to make rules regarding who can practice before it. For instance, the Supreme Court may require that lawyers must have a certain number of years of experience practicing in lower courts before they can appear before the Supreme Court. This ensures that only qualified and experienced lawyers represent cases at the highest level.

##### Example 2:

Scenario: A citizen files a petition in the Supreme Court to enforce their fundamental rights under Part III of the Constitution.

Application of the Act: Article 145(c) allows the Supreme Court to establish rules for proceedings related to the enforcement of fundamental rights. For example, the Court may set specific procedures for filing such petitions, including the format of the petition, the required documentation, and the timeline for hearings. This ensures that there is a clear and consistent process for citizens seeking to enforce their constitutional rights.

#### Example 3:

Scenario: An individual wants to appeal a decision made by a lower court to the Supreme Court.

Application of the Act: Article 145(b) provides the Supreme Court with the authority to make rules regarding the procedure for hearing appeals. For instance, the Court may specify the time frame within which an appeal must be filed after the lower court's decision, the format of the appeal documents, and the process for scheduling hearings. This helps streamline the appeal process and ensures timely justice.

#### Example 4:

Scenario: A party to a case in the Supreme Court believes that the judgment was incorrect and seeks a review.

Application of the Act: Article 145(e) allows the Supreme Court to set rules for reviewing its own judgments. For example, the Court may establish conditions under which a review can be requested, such as new evidence coming to light or an apparent error in the judgment. The rules may also specify the procedure and timeline for filing a review petition. This provides a mechanism for correcting potential errors in the Court's decisions.

#### Example 5:

Scenario: A case involves a substantial question of law regarding the interpretation of the Constitution.

Application of the Act: Article 145(3) mandates that a minimum of five judges must sit for cases involving substantial questions of constitutional law. For instance, if a case questions the constitutionality of a new law, it must be heard by a bench of at least five judges. This ensures that significant constitutional issues are decided by a larger and more representative panel of judges.

#### Example 6:

Scenario: A frivolous appeal is filed in the Supreme Court with the intent to delay proceedings.

Application of the Act: Article 145(i) allows the Supreme Court to make rules for the summary dismissal of frivolous or vexatious appeals. For example, the Court may establish a preliminary review process to quickly identify and dismiss appeals that lack merit or are intended to delay justice. This helps prevent the misuse of the judicial process and ensures that the Court's time is used efficiently.

#### **Article 146: Officers and servants and the expenses of the Supreme Court.**

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President. Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

#### **Simplified act**

(1) The Chief Justice of India, or another Judge or officer he chooses, will appoint the officers and staff of the Supreme Court:

However, the President can make a rule that for certain positions, no one who isn't already working at the Court can be appointed without consulting the Union Public Service Commission.

(2) Any rules about salaries, allowances, leave, or pensions need the President's approval. The working conditions for the Supreme Court's officers and staff will be set by rules made by the Chief Justice of India or another Judge or officer he authorizes, as long as these rules follow any laws made by Parliament.

(3) The costs of running the Supreme Court, including all salaries, allowances, and pensions for its officers and staff, will be paid from the Consolidated Fund of India. Any fees or money collected by the Court will also go into this Fund.

Explanation using Example

Example 1:

Scenario: Appointment of a Court Clerk

Situation: The Chief Justice of India decides to appoint a new court clerk for the Supreme Court. The Chief Justice delegates this responsibility to another senior judge.

Application of the Act:

The senior judge, following the Chief Justice's direction, selects a suitable candidate for the position of court clerk.

However, the President has issued a rule that any new appointment to the Supreme Court must be made after consulting the Union Public Service Commission (UPSC).

The senior judge consults the UPSC, which reviews the candidate's qualifications and suitability for the role.

After receiving a positive recommendation from the UPSC, the senior judge finalizes the appointment of the new court clerk.

Outcome: The new court clerk is appointed following the proper procedure, ensuring compliance with Article 146.

Example 2:

Scenario: Determining Salaries and Allowances

Situation: The Supreme Court needs to revise the salaries and allowances of its officers and servants.

Application of the Act:

The Chief Justice of India drafts new rules regarding the revised salaries and allowances.

These rules are then sent to the President for approval, as required by Article 146(2).

The President reviews the proposed changes and approves them, ensuring they are in line with the broader financial policies of the government.

Once approved, the new salary structure is implemented, and the officers and servants of the Supreme Court receive their revised pay.

Outcome: The salaries and allowances are revised in accordance with the legal requirements, maintaining transparency and adherence to the Constitution.

Example 3:

Scenario: Funding Administrative Expenses

Situation: The Supreme Court incurs various administrative expenses, including salaries, allowances, and pensions for its staff.

Application of the Act:

All administrative expenses, including salaries, allowances, and pensions, are charged upon the Consolidated Fund of India as per Article 146(3).

The Supreme Court submits its budgetary requirements to the government, which includes these expenses.

The government allocates the necessary funds from the Consolidated Fund of India to cover these expenses.

Any fees or other moneys collected by the Supreme Court are also deposited into the Consolidated Fund of India.

Outcome: The administrative expenses of the Supreme Court are funded appropriately, ensuring the smooth functioning of the judiciary without financial constraints.

### **Article 147: Interpretation.**



In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

### **Simplified act**

In this Chapter and in Chapter V of Part VI, whenever we talk about any important legal question regarding the interpretation of this Constitution, it also includes important legal questions about:

The interpretation of the Government of India Act, 1935 (including any changes or additions made to that Act).

Any Order in Council or order made under the Government of India Act, 1935.

The interpretation of the Indian Independence Act, 1947.

Any order made under the Indian Independence Act, 1947.

Explanation using Example

Example 1:

Scenario: A dispute arises regarding the interpretation of a provision in the Indian Constitution related to the powers of the President of India.

Application: The Supreme Court of India is asked to decide whether the President has the authority to dismiss a state government under Article 356 of the Constitution. During the proceedings, a substantial question of law arises about the interpretation of the term "failure of constitutional machinery" in a state.

Relevance to Article 147: According to Article 147, the Supreme Court can also consider previous laws such as the Government of India Act, 1935, and the Indian Independence Act, 1947, to interpret the term "failure of constitutional machinery." This means the Court can look at how similar terms were interpreted under these older laws to help decide the current case.

Example 2:

Scenario: A legal challenge is brought against a new law passed by the Indian Parliament, claiming it violates the fundamental rights guaranteed by the Constitution.

Application: The High Court is asked to determine whether the new law is unconstitutional. During the case, a substantial question of law arises regarding the interpretation of the term "reasonable restrictions" on the freedom of speech and expression under Article 19 of the Constitution.

Relevance to Article 147: Under Article 147, the High Court can refer to the Government of India Act, 1935, and the Indian Independence Act, 1947, to understand how "reasonable restrictions" were interpreted in the past. This historical context can help the Court decide whether the new law's restrictions on speech are reasonable and constitutional.

#### Example 3:

Scenario: A state government enacts a law that appears to conflict with a central law on the same subject.

Application: The conflict is brought before the Supreme Court to determine which law should prevail. A substantial question of law arises regarding the interpretation of the distribution of legislative powers between the Union and the States under the Seventh Schedule of the Constitution.

Relevance to Article 147: Article 147 allows the Supreme Court to consider the Government of India Act, 1935, which also dealt with the distribution of powers between the central and provincial governments. By examining how similar conflicts were resolved under the 1935 Act, the Court can better interpret the current constitutional provisions and resolve the dispute.

#### Example 4:

Scenario: A citizen files a petition challenging the validity of an executive order issued by the President of India, claiming it exceeds the President's constitutional powers.

Application: The case reaches the Supreme Court, where a substantial question of law arises about the interpretation of the President's emergency powers under Article 352 of the Constitution.

Relevance to Article 147: According to Article 147, the Supreme Court can look at the Government of India Act, 1935, and the Indian Independence Act, 1947,

to understand the historical context and limitations of executive powers. This helps the Court determine whether the President's order is within the constitutional framework.

Example 5:

Scenario: A legal dispute involves the interpretation of the term "public order" in the context of preventive detention laws.

Application: The High Court is asked to decide whether a detention order issued under a state law is valid. A substantial question of law arises regarding the interpretation of "public order" under Article 22 of the Constitution.

Relevance to Article 147: Under Article 147, the High Court can refer to the Government of India Act, 1935, and the Indian Independence Act, 1947, to understand how "public order" was interpreted in the past. This historical perspective can help the Court decide whether the detention order is justified under the Constitution.

## **CHAPTER V: COMPTROLLER AND AUDITOR-GENERAL OF INDIA**

### **Article 148: Comptroller and Auditor-General of India.**

Comptroller and Auditor-General of India

(1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(3) The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

### **Simplified act**

#### Comptroller and Auditor-General of India

(1) There will be a Comptroller and Auditor-General of India, who will be appointed by the President with an official document. This person can only be removed from office in the same way and for the same reasons as a Judge of the Supreme Court.

(2) Before starting the job, the person appointed as the Comptroller and Auditor-General of India must take an oath or make a promise in front of the President or someone chosen by the President, following the form given in the Third Schedule.

(3) The salary and other job conditions for the Comptroller and Auditor-General will be decided by Parliament through a law. Until then, they will be as mentioned in the Second Schedule. However, once appointed, the salary, leave, pension, or retirement age of the Comptroller and Auditor-General cannot be changed to their disadvantage.

(4) After leaving the office, the Comptroller and Auditor-General cannot take up any other job under the Government of India or any State Government.

(5) The working conditions for people in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General will be set by rules made by the President after consulting with the Comptroller and Auditor-General, as long as they follow the Constitution and any laws made by Parliament.

(6) The costs of running the office of the Comptroller and Auditor-General, including all salaries, allowances, and pensions for the people working there, will be paid from the Consolidated Fund of India.

Explanation using Example

Example 1:

Scenario: Appointment and Removal of the Comptroller and Auditor-General (CAG)

Situation: Mr. Sharma is appointed as the Comptroller and Auditor-General of India by the President of India. He receives an official warrant signed and sealed by the President. After serving for a few years, there are allegations of misconduct against Mr. Sharma.

Application of the Act:

Appointment: Mr. Sharma's appointment is in accordance with Article 148(1), where the President appoints the CAG by warrant under his hand and seal.

Removal: To remove Mr. Sharma from office, the same procedure and grounds as those for removing a Judge of the Supreme Court must be followed. This involves a detailed process including an inquiry and a motion passed by a special majority in both Houses of Parliament.

Example 2:

Scenario: Oath of Office

Situation: Ms. Verma is appointed as the new Comptroller and Auditor-General of India. Before she can start her duties, she must take an oath of office.

Application of the Act:

Oath: According to Article 148(2), Ms. Verma must make and subscribe to an oath or affirmation before the President of India or a person appointed by the President. This oath is in the form set out in the Third Schedule of the Constitution.

Example 3:

Scenario: Salary and Conditions of Service

Situation: Mr. Gupta, the current CAG, is concerned about his salary and other service conditions.

Application of the Act:

Salary and Conditions: As per Article 148(3), Mr. Gupta's salary and other conditions of service are determined by Parliament by law. Until such a law is made, the conditions specified in the Second Schedule apply. Importantly, his salary, leave, pension, or retirement age cannot be altered to his disadvantage after his appointment.

Example 4:

Scenario: Post-Retirement Employment

Situation: After completing his term as the CAG, Mr. Reddy is offered a lucrative position in a State Government.

Application of the Act:

Post-Retirement Employment: According to Article 148(4), Mr. Reddy is not eligible for any further office under the Government of India or any State Government after ceasing to hold the office of the CAG.

Example 5:

Scenario: Administrative Powers and Service Conditions of Staff

Situation: The staff of the Indian Audit and Accounts Department have concerns about their service conditions and administrative rules.

Application of the Act:

Service Conditions and Administrative Powers: Article 148(5) states that the conditions of service for the staff and the administrative powers of the CAG are prescribed by rules made by the President after consulting the CAG, subject to the Constitution and any law made by Parliament.

Example 6:

Scenario: Funding of the CAG's Office

Situation: The office of the CAG requires funds for administrative expenses, including salaries and pensions of its staff.

Application of the Act:

Funding: As per Article 148(6), the administrative expenses of the CAG's office, including all salaries, allowances, and pensions, are charged upon the Consolidated Fund of India. This ensures financial independence and security for the functioning of the CAG's office.

### **Article 149: Duties and powers of the Comptroller and Auditor-General.**

The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

### **Simplified act**

The Comptroller and Auditor-General (CAG) has the job of checking and managing the financial accounts of the central government (Union), state governments, and any other authorities or bodies. The specific duties and powers of the CAG will be defined by laws made by Parliament. Until such laws are made, the CAG will continue to do the same job and have the same powers as the Auditor-General of India had before this Constitution started, for the financial accounts of the central government and the states.

Explanation using Example

Example 1:

Scenario: The Government of India allocates a budget of ₹10,000 crores for the construction of new highways across various states. After a year, there are allegations of mismanagement and corruption in the utilization of these funds.

Application of Article 149: The Comptroller and Auditor-General (CAG) steps in to audit the accounts related to the highway construction project. The CAG examines the financial records, contracts, and expenditures to ensure that the funds were used appropriately and in accordance with the law. If discrepancies or instances of corruption are found, the CAG reports these findings to the Parliament, which can then take necessary actions, such as ordering further investigations or implementing corrective measures.

Example 2:

Scenario: A state government in India launches a new welfare scheme aimed at providing financial assistance to farmers. The scheme involves direct cash transfers to the bank accounts of eligible farmers.

Application of Article 149: The CAG audits the accounts of the state government to verify the proper implementation of the welfare scheme. This includes checking whether the funds allocated for the scheme were disbursed correctly, whether the beneficiaries were genuinely eligible, and whether there were any irregularities in the process. The CAG's audit report is then submitted to the state legislature, which can use the findings to improve the scheme's implementation and address any issues identified.

#### Example 3:

Scenario: A public sector undertaking (PSU) in India is suspected of financial irregularities and mismanagement of resources.

Application of Article 149: The CAG conducts a comprehensive audit of the PSU's accounts and financial transactions. This audit includes reviewing the PSU's revenue, expenditures, procurement processes, and compliance with financial regulations. The CAG's findings are documented in a detailed report, which is presented to the Parliament. Based on the report, the Parliament can take necessary actions, such as recommending reforms in the PSU's operations or initiating legal proceedings against those responsible for the irregularities.

#### Example 4:

Scenario: The Union Government of India implements a nationwide digital education program to enhance online learning infrastructure in schools.

Application of Article 149: The CAG audits the accounts related to the digital education program to ensure that the funds allocated for the initiative are being used effectively and transparently. The audit includes evaluating the procurement of digital devices, the distribution of resources to schools, and the overall impact of the program. The CAG's audit report is then submitted to the Parliament, which can use the findings to make informed decisions about the continuation, expansion, or modification of the program.

### **Article 150: Form of accounts of the Union and of the States.**

- The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor-General of India, prescribe.



## **Simplified act**

The financial records of the central government and the state governments will be maintained in a format decided by the President, based on the recommendations of the Comptroller and Auditor-General of India.

Explanation using Example

Example 1:

Scenario: The Government of India has decided to implement a new digital accounting system for all financial transactions.

Application of Article 150: The President of India, after consulting with the Comptroller and Auditor-General (CAG) of India, prescribes the format and guidelines for the new digital accounting system. This ensures that all financial records of the Union and the States are maintained uniformly and transparently.

Outcome: All government departments and state governments adopt the new digital accounting system as per the prescribed format. This helps in maintaining consistency and ease of auditing across different levels of government.

Example 2:

Scenario: A state government wants to introduce a new method for recording its financial transactions that deviates from the current prescribed format.

Application of Article 150: The state government must seek approval from the President of India. The President, in turn, will consult with the Comptroller and Auditor-General of India to determine if the new method is acceptable and whether it aligns with the overall accounting standards of the Union and the States.

Outcome: If the President, based on the advice of the CAG, approves the new method, the state government can implement it. Otherwise, the state must continue using the existing prescribed format to ensure uniformity and compliance with national standards.

## **Article 151: Audit reports.**

(1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor \* \* \* of the State, who shall cause them to be laid before the Legislature of the State.

### **Simplified act**

(1) The reports made by the Comptroller and Auditor-General of India about the financial accounts of the country must be given to the President. The President will then make sure these reports are presented to both Houses of Parliament.

(2) The reports made by the Comptroller and Auditor-General of India about the financial accounts of a State must be given to the Governor of that State. The Governor will then make sure these reports are presented to the State Legislature.

#### Explanation using Example

##### Example 1:

Scenario: The Comptroller and Auditor-General (CAG) of India conducts an audit of the Ministry of Health and Family Welfare's expenditures for the fiscal year 2022-2023.

##### Process:

The CAG completes the audit and prepares a detailed report highlighting discrepancies, inefficiencies, and areas of concern in the Ministry's financial management.

The CAG submits this report to the President of India.

The President ensures that the report is presented before both Houses of Parliament (Lok Sabha and Rajya Sabha).

Members of Parliament review the report, discuss its findings, and may take necessary actions or make recommendations based on the audit.

Outcome: This process ensures transparency and accountability in the financial operations of the Ministry of Health and Family Welfare, allowing Parliament to oversee and address any issues identified by the CAG.

Example 2:

Scenario: The Comptroller and Auditor-General (CAG) of India audits the financial accounts of the State of Maharashtra for the fiscal year 2022-2023.

Process:

The CAG completes the audit and prepares a comprehensive report detailing any financial irregularities, mismanagement, or inefficiencies in the State's expenditures.

The CAG submits this report to the Governor of Maharashtra.

The Governor ensures that the report is laid before the Maharashtra State Legislature.

Members of the State Legislature review the report, discuss its findings, and may take necessary actions or make recommendations based on the audit.

Outcome: This process ensures that the financial operations of the State of Maharashtra are transparent and accountable, allowing the State Legislature to oversee and address any issues identified by the CAG.

## **PART VI: THE STATES**

### **CHAPTER I: GENERAL**

#### **Article 152: Definition.**

In this Part, unless the context otherwise requires, the expression "State" does not include the State of Jammu and Kashmir.

#### **Simplified act**

In this section, unless it clearly means something else, the term "State" does not include the State of Jammu and Kashmir.

Explanation using Example

Example 1:

Scenario: A citizen files a petition in the Supreme Court of India challenging a law passed by the State of Maharashtra, claiming it violates their fundamental rights under the Constitution of India.

Application of Article 152: In this case, the term "State" as used in the petition and the legal arguments would include Maharashtra. However, if the same petition were to challenge a law passed by the State of Jammu and Kashmir, Article 152 clarifies that Jammu and Kashmir is not included in the definition of "State" for the purposes of this Part of the Constitution. Therefore, the legal provisions and interpretations applicable to other states would not automatically apply to Jammu and Kashmir.

Example 2:

Scenario: A public interest litigation (PIL) is filed against the State of Tamil Nadu for not implementing a central government scheme aimed at improving public health.

Application of Article 152: The term "State" in this context includes Tamil Nadu, and the PIL can proceed based on the constitutional obligations of the state. However, if a similar PIL were filed against the State of Jammu and Kashmir for the same issue, Article 152 indicates that Jammu and Kashmir is not included in the definition of "State" for this Part of the Constitution. This means that the legal framework and obligations that apply to other states under this Part would not necessarily apply to Jammu and Kashmir.

## **CHAPTER II: THE EXECUTIVE**

### **THE GOVERNOR**

#### **Article 153: Governors of States.**

There shall be a Governor for each State:

Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

## **Simplified act**

Each state will have a Governor:

However, this rule does not stop the same person from being appointed as the Governor for two or more states at the same time.

Explanation using Example

Example 1:

Mr. Sharma is appointed as the Governor of the state of Maharashtra. He is responsible for overseeing the administration of the state, ensuring that the laws passed by the state legislature are implemented, and acting as a representative of the President of India in the state. His duties include giving assent to bills passed by the state legislature, summoning and proroguing the state legislative assembly, and addressing the assembly at the beginning of each year.

Example 2:

Ms. Rao is appointed as the Governor of both the states of Telangana and Andhra Pradesh. Despite the geographical and administrative differences between the two states, she holds the position of Governor for both. This means she performs the same constitutional duties in both states, such as giving assent to bills, summoning the legislative assemblies, and ensuring the state governments function according to the Constitution of India. Her dual role helps in maintaining a uniform approach in the administration of these neighboring states.

## **Article 154: Executive power of State.**

Article

Executive Power of the State

(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall -

- (a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or
- (b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

### **Simplified act**

#### Article

#### Executive Power of the State

(1) The Governor holds the executive power of the State. This means the Governor can use this power directly or through other officers who work under him, as per the rules of the Constitution.

(2) This article does not mean that -

- (a) any duties given to other authorities by existing laws are now the Governor's duties; or
- (b) Parliament or the State Legislature cannot give duties to other authorities under the Governor.

#### Explanation using Example

##### Example 1:

Scenario: Appointment of a State Police Chief

Explanation: The Governor of a state has the executive power to appoint the State Police Chief. However, this power is often exercised through the state's Home Department, which is a subordinate office. The Home Department will typically recommend a candidate for the position, and the Governor will formally appoint the candidate based on this recommendation.

Practical Example: In the state of Maharashtra, the Home Department recommends Mr. A as the new State Police Chief. The Governor, exercising his executive power, formally appoints Mr. A to the position. This appointment is done in accordance with the Constitution, where the Governor acts on the advice of the subordinate officers.

##### Example 2:

Scenario: Issuance of State Ordinances

Explanation: The Governor has the power to issue ordinances when the state legislature is not in session. This is an example of the Governor exercising executive power directly. However, these ordinances must be approved by the state legislature when it reconvenes.

Practical Example: In the state of Karnataka, the state legislature is not in session, and there is an urgent need to address a public health crisis. The Governor issues an ordinance to allocate additional funds for healthcare infrastructure. When the state legislature reconvenes, it reviews and approves the ordinance, thereby converting it into law.

Example 3:

Scenario: Delegation of Functions to a State Authority

Explanation: The state legislature can pass a law that delegates certain functions to an authority subordinate to the Governor. This does not transfer the Governor's executive power but allows the subordinate authority to perform specific functions.

Practical Example: The Tamil Nadu state legislature passes a law that delegates the function of managing state highways to the Tamil Nadu Highways Department, a subordinate authority. The Governor's executive power remains intact, but the Highways Department is now responsible for the day-to-day management and maintenance of state highways.

Example 4:

Scenario: Non-Interference with Existing Laws

Explanation: If an existing law confers certain functions on an authority other than the Governor, this article does not transfer those functions to the Governor. The existing law continues to operate as it is.

Practical Example: An existing law in the state of West Bengal confers the function of regulating urban development to the Urban Development Authority. According to Article 154, this function remains with the Urban Development Authority and is not transferred to the Governor. The Governor's executive power does not interfere with the functions already assigned by existing laws.

### **Article 155: Appointment of Governor.**

The Governor of a State shall be appointed by the President by warrant under his hand and seal.

## **Article 156: Term of office of Governor.**

- (1) The Governor shall hold office during the pleasure of the President.
- (2) The Governor may, by writing under his hand addressed to the President, resign his office.
- (3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:  
  
Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

### **Simplified act**

- (1) The Governor can stay in their job as long as the President wants them to.
- (2) The Governor can quit their job by writing a resignation letter to the President.
- (3) Normally, the Governor's job lasts for five years from the day they start:  
  
But even after those five years are up, the Governor will keep working until the next Governor starts.

### **Explanation using Example**

#### **Example 1:**

**Scenario:** Appointment and Resignation of a Governor

**Context:** Mr. Sharma is appointed as the Governor of the state of Maharashtra.

**Application:**

**Appointment:** Mr. Sharma is appointed as the Governor by the President of India. According to Article 156(1), he will hold office during the pleasure of the President. This means that the President can remove him from office at any time.

**Resignation:** After serving for three years, Mr. Sharma decides to resign from his position. He writes a resignation letter addressed to the President of India, as required by Article 156(2). Upon acceptance of his resignation by the President, Mr. Sharma ceases to be the Governor.

#### **Example 2:**



Scenario: Completion of Term and Continuation in Office

Context: Ms. Verma is appointed as the Governor of the state of Karnataka.

Application:

Term of Office: Ms. Verma enters office on January 1, 2020. According to Article 156(3), she is supposed to hold office for a term of five years, which means her term would end on December 31, 2024.

Continuation: However, by December 31, 2024, a new Governor has not yet been appointed. According to the proviso in Article 156(3), Ms. Verma will continue to hold office until her successor enters upon the office. This ensures there is no vacancy in the office of the Governor.

Example 3:

Scenario: Removal of a Governor

Context: Mr. Singh is the Governor of the state of Tamil Nadu.

Application:

Removal: During his tenure, Mr. Singh faces allegations of misconduct. The President of India, exercising the power under Article 156(1), decides to remove Mr. Singh from the office of the Governor. Mr. Singh is informed of his removal, and he ceases to hold the office immediately.

New Appointment: Following Mr. Singh's removal, the President appoints a new Governor for Tamil Nadu, ensuring the continuity of governance in the state.

Example 4:

Scenario: Governor's Term Expiration and New Appointment

Context: Dr. Rao is the Governor of the state of West Bengal.

Application:

Term Expiration: Dr. Rao's five-year term is set to expire on March 15, 2023. As per Article 156(3), his term officially ends on this date.

New Appointment: The President appoints a new Governor, Mr. Patel, who is scheduled to take office on March 20, 2023. According to the proviso in Article 156(3), Dr. Rao will continue to hold office until Mr. Patel enters upon his office on March 20, 2023, ensuring there is no gap in the office of the Governor.

### **Article 157: Qualifications for appointment as Governor.**

No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

#### **Simplified act**

A person can only be appointed as Governor if they are a citizen of India and at least 35 years old.

Explanation using Example

Example 1:

Rajesh, a 40-year-old Indian citizen, has been actively involved in public service for many years. He has a clean record and is well-respected in his community. The central government is considering appointing him as the Governor of a state. Since Rajesh is an Indian citizen and is over 35 years old, he meets the qualifications specified in Article 157 of the Constitution of India. Therefore, he is eligible for the appointment as Governor.

Example 2:

Meera, a 33-year-old Indian citizen, has an impressive background in law and public administration. She has been recognized for her contributions to social justice and governance. Despite her qualifications and achievements, Meera does not meet the age requirement specified in Article 157 of the Constitution of India, as she is not yet 35 years old. Therefore, she is not eligible for appointment as Governor at this time.

### **Article 158: Conditions of Governor's office.**

(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision

in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

### **Simplified act**

(1) The Governor cannot be a member of either House of Parliament or any State Legislature listed in the First Schedule. If someone who is already a member of Parliament or a State Legislature becomes Governor, they automatically lose their seat in that House on the day they start their job as Governor.

(2) The Governor cannot have any other job that pays a salary.

(3) The Governor can live in official residences without paying rent and will receive a salary, allowances, and other benefits as decided by Parliament. Until Parliament makes a decision, the Governor will get the benefits listed in the Second Schedule.

(3A) If one person is appointed as Governor for two or more States, the salary and allowances will be divided among those States as decided by the President.

(4) The salary and allowances of the Governor cannot be reduced while they are in office.

### **Explanation using Example**

#### **Example 1:**

Scenario: Appointment of a Governor who is currently a Member of Parliament

Situation: Mr. Sharma is a sitting Member of Parliament (MP) from Uttar Pradesh. The President of India appoints Mr. Sharma as the Governor of Maharashtra.

Application of Article 158(1): According to Article 158(1), Mr. Sharma cannot be a member of either House of Parliament or of a House of the Legislature of any State while serving as Governor. Therefore, upon his appointment as Governor

of Maharashtra, Mr. Sharma will automatically vacate his seat as an MP on the date he assumes office as Governor.

Outcome: Mr. Sharma resigns from his position as an MP and takes the oath of office as the Governor of Maharashtra.

#### Example 2:

Scenario: Governor holding another office of profit

Situation: Ms. Rao is appointed as the Governor of Karnataka. Prior to her appointment, she was also serving as the Chairperson of a government-owned corporation, which is considered an office of profit.

Application of Article 158(2): Article 158(2) states that the Governor shall not hold any other office of profit. Therefore, Ms. Rao must resign from her position as Chairperson of the government-owned corporation before assuming her duties as Governor.

Outcome: Ms. Rao resigns from her position as Chairperson and takes the oath of office as the Governor of Karnataka.

#### Example 3:

Scenario: Governor's official residence and allowances

Situation: Mr. Verma is appointed as the Governor of Tamil Nadu. He is concerned about his living arrangements and the allowances he will receive.

Application of Article 158(3): According to Article 158(3), Mr. Verma is entitled to use the official residence without paying rent. He is also entitled to emoluments, allowances, and privileges as determined by Parliament or as specified in the Second Schedule until such provisions are made.

Outcome: Mr. Verma moves into the official Governor's residence in Chennai and receives the specified emoluments, allowances, and privileges.

#### Example 4:

Scenario: Governor appointed for two states

Situation: Dr. Singh is appointed as the Governor of both Punjab and Haryana.

Application of Article 158(3A): Article 158(3A) states that when the same person is appointed as Governor of two or more States, the emoluments and

allowances payable to the Governor shall be allocated among the States in such proportion as the President may determine.

Outcome: The President issues an order determining the proportion of emoluments and allowances that Punjab and Haryana will each pay to Dr. Singh. Dr. Singh receives his emoluments and allowances accordingly.

Example 5:

Scenario: Diminishing emoluments and allowances during the Governor's term

Situation: Ms. Kapoor is serving as the Governor of West Bengal. During her term, there is a proposal to reduce the emoluments and allowances of Governors due to budget constraints.

Application of Article 158(4): Article 158(4) ensures that the emoluments and allowances of the Governor shall not be diminished during their term of office.

Outcome: Ms. Kapoor continues to receive her emoluments and allowances without any reduction for the duration of her term as Governor.

### **Article 159: Oath or affirmation by the Governor.**

Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior most Judge of that Court available, an oath or affirmation in the following form, that is to say -

"I, A. B., do swear in the name of God that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of..... (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of..... (name of the State)."

### **Simplified act**

Every Governor and every person who takes on the role of Governor must, before starting their job, make a promise in front of the Chief Justice of the High Court for that State. If the Chief Justice is not available, they can do it in front of the next most senior Judge of that Court.

The promise they make goes like this:

"I, A. B., swear in the name of God that I will faithfully do the job of Governor (or take on the duties of the Governor) of..... (name of the State) and will do my best to preserve, protect, and defend the Constitution and the law. I will also dedicate myself to serving and ensuring the well-being of the people of..... (name of the State)."

Explanation using Example

Example 1:

Mr. Rajesh Sharma has been appointed as the new Governor of the state of Maharashtra. Before he can officially start his duties, he must take an oath of office. On the appointed day, Mr. Sharma goes to the High Court of Bombay. The Chief Justice of the High Court is present to administer the oath. Mr. Sharma stands before the Chief Justice and recites the following oath:

"I, Rajesh Sharma, do swear in the name of God that I will faithfully execute the office of Governor of Maharashtra and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of Maharashtra."

After taking the oath, Mr. Sharma signs the oath document, officially marking the beginning of his term as Governor.

Example 2:

Ms. Priya Verma has been appointed as the acting Governor of the state of Karnataka due to the sudden resignation of the previous Governor. Before she can assume her responsibilities, she must take an oath of office. The Chief Justice of the Karnataka High Court is unavailable on the scheduled day, so the senior-most Judge of the High Court steps in to administer the oath. Ms. Verma stands before the senior-most Judge and recites the following oath:

"I, Priya Verma, do swear in the name of God that I will faithfully discharge the functions of the Governor of Karnataka and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of Karnataka."

After taking the oath, Ms. Verma signs the oath document, officially allowing her to start her duties as the acting Governor.

**Article 160: Discharge of the functions of the Governor in certain contingencies.**

The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

### **Simplified act**

The President can decide how the Governor of a State should carry out their duties if a situation arises that is not covered in this Chapter.

Explanation using Example

Example 1:

Scenario: The Governor of a state is suddenly incapacitated due to a severe health issue and is unable to perform his duties. There is no immediate provision in the Constitution for such a situation.

Application: In this case, the President of India can step in and make necessary arrangements for the discharge of the Governor's functions. This could include appointing an acting Governor or delegating the responsibilities to another official until the Governor recovers or a new Governor is appointed.

Example 2:

Scenario: The Governor of a state is under investigation for serious allegations of misconduct and is temporarily suspended from duty. The Constitution does not explicitly cover this specific situation.

Application: Here, the President of India has the authority to make provisions for the discharge of the Governor's functions. The President might appoint an interim Governor or assign the duties to another senior official to ensure that the state's executive functions continue smoothly during the period of suspension.

### **Article 161: Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.**

The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

### **Simplified act**

The Governor of a State has the authority to:

Forgive someone for a crime (grant pardons),

Delay their punishment (grant reprieves),

Give them a break from their punishment (grant respites),

Reduce their punishment (grant remissions),

Pause their punishment (suspend the sentence),

Cancel part of their punishment (remit the sentence), or

Change their punishment to something less severe (commute the sentence).

This applies to anyone convicted of breaking a law that the State has the power to enforce.

Explanation using Example

Example 1:

Rajesh, a resident of Maharashtra, was convicted of a crime under the state's criminal law and sentenced to 10 years in prison. After serving 5 years, Rajesh's family submits a petition to the Governor of Maharashtra, requesting a pardon due to Rajesh's good behavior and deteriorating health. The Governor, after reviewing the case and considering the recommendations from the prison authorities, decides to grant a pardon, thereby releasing Rajesh from the remaining 5 years of his sentence.

Example 2:

Anita, a school teacher in Karnataka, was convicted of a minor offense and sentenced to 6 months in prison. Due to her critical role in the community and the upcoming board exams for her students, the school management and local community leaders appeal to the Governor of Karnataka to suspend her sentence. The Governor, acknowledging the importance of Anita's role and the impact on the students, decides to suspend her sentence for 6 months, allowing her to continue teaching during the crucial exam period.

**Article 162: Extent of executive power of the State.**



Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

### **Simplified act**

According to this Constitution, the government of a State can take actions on topics that the State's Legislature is allowed to make laws about.

However, if both the State Legislature and the Parliament can make laws on a topic, the State's power to act is limited by the powers given to the Union (central government) by this Constitution or any law made by Parliament.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra wants to implement a new agricultural policy to support local farmers.

Application of Article 162:

The Maharashtra State Legislature has the power to make laws regarding agriculture, as it falls under the State List in the Constitution.

Therefore, the executive power of Maharashtra extends to implementing and enforcing this new agricultural policy.

However, if there is a central law made by Parliament that also deals with agricultural policies, Maharashtra's executive power must align with and not contradict the central law.

Example 2:

Scenario: The State of Karnataka decides to introduce a new law to regulate the use of plastic within the state.

Application of Article 162:

The Karnataka State Legislature has the power to make laws on matters related to public health and sanitation, which includes the regulation of plastic use.

Thus, the executive power of Karnataka extends to enforcing this new regulation on plastic use.

If the Parliament has already enacted a law regarding the regulation of plastic use, Karnataka's executive power will be subject to the provisions of the central law. Karnataka cannot implement regulations that conflict with the central law.

Example 3:

Scenario: The State of Tamil Nadu wants to establish a new university.

Application of Article 162:

Education, including universities, is a subject on which both the State Legislature and Parliament can make laws (Concurrent List).

Tamil Nadu has the executive power to establish and manage the new university.

However, if there is a central law governing the establishment and regulation of universities, Tamil Nadu's executive actions must comply with the central law. For instance, if the central law requires certain standards for universities, Tamil Nadu must adhere to these standards.

Example 4:

Scenario: The State of West Bengal plans to introduce a new traffic regulation system to reduce road accidents.

Application of Article 162:

Traffic regulations fall under the State List, giving the West Bengal Legislature the power to make laws on this matter.

Consequently, the executive power of West Bengal extends to implementing and managing the new traffic regulation system.

If there is a central law related to motor vehicles and traffic regulations, West Bengal's executive power must operate within the framework of the central law. For example, if the central law sets certain safety standards for vehicles, West Bengal's regulations cannot be less stringent than those standards.

## **CHAPTER II: THE EXECUTIVE**

### **COUNCIL OF MINISTERS**

#### **Article 163: Council of Ministers to aid and advise Governor.**

(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

#### **Simplified act**

(1) There will be a group of ministers led by the Chief Minister to help and advise the Governor in doing his job, except for the things that the Constitution says the Governor should do on his own.

(2) If there's any doubt about whether the Governor should act on his own for a particular matter, the Governor's decision will be final. No one can question the Governor's actions based on whether he should have acted on his own or not.

(3) No court can investigate what advice the ministers gave to the Governor.

Explanation using Example

Example 1:

Scenario: Appointment of a Chief Minister

Context: After a state legislative assembly election, no single party has a clear majority. Multiple parties are trying to form a coalition government.

Application of Article 163:

The Governor of the state needs to decide who should be invited to form the government.

The Council of Ministers, led by the Chief Minister, will advise the Governor on various matters once the government is formed.

However, in this situation, the Governor may use his discretion to invite the leader of the largest party or coalition to form the government.

If there is a dispute about whether the Governor should use his discretion, the Governor's decision is final and cannot be challenged in court.

Outcome: The Governor invites the leader of the largest coalition to form the government, and this decision is final and cannot be questioned in court.

Example 2:

Scenario: Dissolution of the State Legislative Assembly

Context: The ruling party in a state loses its majority due to defections, and there is political instability.

Application of Article 163:

The Chief Minister and the Council of Ministers may advise the Governor to dissolve the legislative assembly and call for fresh elections.

The Governor, however, has the discretion to decide whether to accept this advice or explore other options, such as inviting another party to form the government.

If the Governor decides to dissolve the assembly, this decision is final and cannot be questioned in court.

The advice given by the Council of Ministers to the Governor regarding the dissolution cannot be inquired into by any court.

Outcome: The Governor decides to dissolve the legislative assembly based on the advice of the Council of Ministers, and this decision is final and cannot be challenged in court.

## **Article 164: Other provisions as to Ministers.**

Article - Appointment and Responsibilities of Ministers

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief

Minister, and the Ministers shall hold office during the pleasure of the Governor:

Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date \* \* \* as the President may by public notification appoint.

(1B) (2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

### **Simplified act**

#### Article - Appointment and Responsibilities of Ministers

(1) The Governor appoints the Chief Minister. The other Ministers are appointed by the Governor based on the Chief Minister's advice. Ministers stay in their positions as long as the Governor wants them to:

In the states of Chhattisgarh, Jharkhand, Madhya Pradesh, and Odisha, there must be a Minister responsible for tribal welfare. This Minister can also handle the welfare of Scheduled Castes, backward classes, or other duties.

(1A) The total number of Ministers, including the Chief Minister, in a State cannot be more than 15% of the total members of the State's Legislative Assembly:

However, there must be at least 12 Ministers, including the Chief Minister, in a State:

If a State had more Ministers than allowed when the Constitution (Ninety-first Amendment) Act, 2003 started, the number of Ministers must be reduced to meet these rules within six months from a date set by the President through a public notice.

(1B) (2) The Council of Ministers is collectively responsible to the State's Legislative Assembly.

(3) Before starting their job, a Minister must take an oath of office and secrecy, administered by the Governor, using the forms in the Third Schedule.

A member of the State's Legislative Assembly or either House of the State Legislature who belongs to a political party and is disqualified under paragraph 2 of the Tenth Schedule cannot be appointed as a Minister during their disqualification period. This period lasts from the date of disqualification until their term would have ended or until they are elected again, whichever comes first.

(4) A Minister who is not a member of the State Legislature for six consecutive months will lose their position as a Minister at the end of that period.

(5) The salaries and allowances of Ministers are decided by the State Legislature through laws. Until the State Legislature decides, the salaries and allowances will be as specified in the Second Schedule.

#### Explanation using Example

##### Example 1:

Scenario: Appointment of Ministers in a State

Context: In the state of Maharashtra, the Governor is responsible for appointing the Chief Minister and other Ministers.

Example: After the state elections, Party A wins the majority of seats in the Legislative Assembly. The leader of Party A, Mr. Sharma, is appointed as the Chief Minister by the Governor. Mr. Sharma then advises the Governor to appoint Ms. Verma, Mr. Patel, and Ms. Rao as Ministers. The Governor follows this advice and appoints them as Ministers. They hold office as long as they have the confidence of the Governor.

##### Example 2:

Scenario: Limitation on the Number of Ministers

Context: The total number of Ministers in the state of Karnataka must not exceed fifteen percent of the total number of members in the Legislative Assembly.

Example: Karnataka has 224 members in its Legislative Assembly. According to Article 164(1A), the total number of Ministers, including the Chief Minister, cannot exceed 15% of 224, which is 33.6. Therefore, the maximum number of Ministers allowed is 33. If the current number of Ministers exceeds this limit, the state must reduce the number of Ministers to comply with the law within six months.

##### Example 3:

Scenario: Collective Responsibility to the Legislative Assembly

Context: The Council of Ministers in the state of Tamil Nadu is collectively responsible to the Legislative Assembly.

Example: If the Legislative Assembly passes a vote of no confidence against the Council of Ministers, the entire Council, including the Chief Minister, must resign. This ensures that the Council of Ministers remains accountable to the elected representatives of the people.

Example 4:

Scenario: Oath of Office and Secrecy

Context: Before assuming office, a Minister in the state of West Bengal must take an oath of office and secrecy.

Example: Mr. Banerjee is appointed as a Minister in West Bengal. Before he can start his duties, the Governor administers the oaths of office and secrecy to him, as per the forms set out in the Third Schedule of the Constitution. This formal ceremony ensures that Mr. Banerjee pledges to uphold the Constitution and maintain confidentiality in his duties.

Example 5:

Scenario: Disqualification of a Minister

Context: A member of the Legislative Assembly who is disqualified under the Tenth Schedule cannot be appointed as a Minister.

Example: Ms. Singh, a member of the Legislative Assembly in Uttar Pradesh, is disqualified under the Tenth Schedule for defection. As a result, she cannot be appointed as a Minister until her disqualification period ends or until she is re-elected to the Assembly.

Example 6:

Scenario: Minister Not Being a Member of the Legislature

Context: A Minister must be a member of the Legislature of the State within six months of their appointment.

Example: Mr. Kumar is appointed as a Minister in Bihar, but he is not currently a member of the Legislative Assembly. He must get elected to the Assembly within six months of his appointment. If he fails to do so, he will cease to be a Minister at the end of the six-month period.

Example 7:

Scenario: Salaries and Allowances of Ministers



Context: The salaries and allowances of Ministers in the state of Rajasthan are determined by the State Legislature.

Example: The Rajasthan Legislative Assembly passes a law that sets the monthly salary of a Minister at ₹1,50,000 and provides allowances for travel, housing, and other expenses. Until such a law is passed, the salaries and allowances are as specified in the Second Schedule of the Constitution.

### **The Advocate-General for the State**

#### **Article 165: Advocate-General for the State.**

- (1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.
- (2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.
- (3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

### **Simplified act**

#### Advocate-General for the State

- (1) The Governor of each State will appoint a person who is qualified to be a Judge of a High Court to be the Advocate-General for the State.
- (2) The Advocate-General's job is to give legal advice to the State Government on various legal matters and to carry out other legal duties assigned by the Governor. The Advocate-General also has to perform any legal functions given to them by the Constitution or any other current law.
- (3) The Advocate-General will stay in their position as long as the Governor wants them to and will be paid a salary decided by the Governor.

#### Explanation using Example

Example 1:

Scenario: The State Government of Maharashtra is planning to introduce a new law related to environmental protection. However, there are concerns about whether the proposed law conflicts with existing central legislation.

Application of Article 165: The Governor of Maharashtra appoints Mr. Rajesh Sharma, a senior advocate qualified to be a High Court judge, as the Advocate-General for the State. The State Government seeks Mr. Sharma's legal advice on the proposed environmental law. Mr. Sharma reviews the draft legislation and provides a detailed opinion, ensuring that the new law does not conflict with central laws and adheres to the Constitution of India. His advice helps the State Government to make necessary amendments before introducing the bill in the State Legislature.

#### Example 2:

Scenario: The Government of Karnataka is involved in a legal dispute with a private company over land acquisition for a public infrastructure project. The case is being heard in the Karnataka High Court.

Application of Article 165: The Governor of Karnataka has appointed Ms. Priya Menon as the Advocate-General for the State. The State Government assigns Ms. Menon the duty of representing the government in the High Court. Ms. Menon prepares the legal arguments, represents the State's interests in court, and provides legal counsel to the government officials involved in the case. Her role is crucial in ensuring that the State's position is effectively presented and defended in the legal proceedings.

#### Example 3:

Scenario: The Governor of Tamil Nadu wants to understand the legal implications of a recent Supreme Court judgment on the reservation policy in educational institutions within the state.

Application of Article 165: The Governor refers the matter to Mr. Arvind Kumar, the Advocate-General of Tamil Nadu. Mr. Kumar analyzes the Supreme Court judgment and its impact on the state's reservation policy. He provides a comprehensive report to the Governor, outlining the necessary legal adjustments the state needs to make to comply with the judgment. This helps the state government to align its policies with the judicial directives and avoid potential legal challenges.

#### Example 4:

Scenario: The State Government of West Bengal is drafting a new policy to regulate the use of drones for commercial purposes. They need to ensure that the policy is legally sound and does not infringe on privacy rights.

Application of Article 165: The Governor of West Bengal appoints Ms. Ananya Sen as the Advocate-General for the State. The government seeks her advice on the legal aspects of the new drone policy. Ms. Sen reviews the draft policy, identifies potential legal issues, and suggests modifications to ensure that the policy respects privacy rights and complies with existing laws. Her input is crucial in formulating a legally robust policy that can withstand judicial scrutiny.

### **Conduct of Government Business**

#### **Article 166: Conduct of business of the Government of a State.**

- (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.
- (2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.
- (3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.
- (4) \* \* \* \* \*

### **Simplified act**

- (1) All actions taken by the State Government must be done in the name of the Governor.
- (2) Any orders or documents made in the name of the Governor must be verified in a way that the Governor decides. Once verified, no one can question their validity just because they were not directly made by the Governor.

(3) The Governor will create rules to make the State Government's work easier and to divide the work among Ministers, except for the work that the Governor must do personally according to the Constitution.

(4) \* \* \* \* \*

Explanation using Example

Example 1:

Scenario: The State Government of Maharashtra decides to implement a new policy to improve public transportation.

Application of Article 166:

Executive Action in the Name of the Governor: The policy decision to improve public transportation will be expressed as an action taken in the name of the Governor of Maharashtra.

Authentication of Orders: The official order to allocate funds for new buses and to upgrade existing infrastructure will be issued in the name of the Governor. This order will be authenticated according to the rules specified by the Governor, ensuring its validity cannot be questioned on the grounds that it was not personally made by the Governor.

Rules for Business Transaction: The Governor will have established rules for how such decisions are to be processed and which Minister is responsible for the transportation sector. The Minister of Transport will handle the implementation of this policy, as allocated by the Governor's rules.

Example 2:

Scenario: The State Government of Karnataka decides to introduce a new educational program in government schools.

Application of Article 166:

Executive Action in the Name of the Governor: The decision to introduce the new educational program will be officially expressed as an action taken in the name of the Governor of Karnataka.

Authentication of Orders: The order to distribute new textbooks and train teachers for the new program will be issued in the name of the Governor. This order will be authenticated in the manner specified by the Governor's rules, ensuring its validity is not questioned.

Rules for Business Transaction: The Governor will have made rules for the transaction of such business, including the allocation of responsibilities. The Minister of Education will be responsible for the execution of this program, as per the rules set by the Governor.

Example 3:

Scenario: The State Government of Tamil Nadu decides to implement a new health initiative to combat dengue fever.

Application of Article 166:

Executive Action in the Name of the Governor: The initiative to combat dengue fever will be expressed as an executive action taken in the name of the Governor of Tamil Nadu.

Authentication of Orders: The order to launch awareness campaigns and distribute mosquito nets will be issued in the name of the Governor. This order will be authenticated according to the rules specified by the Governor, ensuring its validity cannot be questioned.

Rules for Business Transaction: The Governor will have established rules for the transaction of such business, including the allocation of responsibilities. The Minister of Health will be responsible for the implementation of this health initiative, as allocated by the Governor's rules.

**Article 167: Duties of Chief Minister as respects the furnishing of information to Governor, etc.**

It shall be the duty of the Chief Minister of each State

- (a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and
- (c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

**Simplified act**

## Responsibilities of the Chief Minister of each State

- (a) The Chief Minister must inform the Governor of the State about all decisions made by the Council of Ministers regarding the management of the State's affairs and any new laws they plan to introduce.
- (b) The Chief Minister must provide any information about the State's management and new laws that the Governor asks for.
- (c) If the Governor requests, the Chief Minister must bring any matter that a Minister has decided on, but which hasn't been discussed by the Council of Ministers, to the Council for their consideration.

### Explanation using Example

#### Example 1:

Scenario: The State Government decides to implement a new agricultural policy to support farmers.

#### Application of Article 167:

- (a) The Chief Minister must inform the Governor about the new agricultural policy decision made by the Council of Ministers.
- (b) If the Governor requests more details about how the policy will be implemented, the Chief Minister must provide all relevant information.
- (c) If the Agriculture Minister made a decision regarding the policy without the Council of Ministers' input, and the Governor asks for it to be reviewed, the Chief Minister must ensure that the matter is brought before the Council of Ministers for consideration.

#### Example 2:

Scenario: The State Government plans to introduce a new law to improve public healthcare facilities.

#### Application of Article 167:

- (a) The Chief Minister must communicate to the Governor all decisions made by the Council of Ministers regarding the new healthcare legislation.
- (b) If the Governor asks for specific details about the proposed healthcare law, the Chief Minister is obligated to provide that information.

(c) If the Health Minister has made a decision about the healthcare law without the Council of Ministers' approval, and the Governor wants it reviewed, the Chief Minister must ensure that the decision is submitted to the Council of Ministers for their consideration.

### **Article 168: Constitution of Legislatures in States.**

(1) For every State there shall be a Legislature which shall consist of the Governor, and -

(a) in the States of Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Karnataka, Tamil Nadu, Telangana and Uttar Pradesh, two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

### **Simplified act**

(1) Every State will have a Legislature that includes the Governor, and -

(a) In the States of Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Karnataka, Tamil Nadu, Telangana, and Uttar Pradesh, there will be two Houses;

(b) In other States, there will be one House.

(2) If a State has two Houses in its Legislature, one will be called the Legislative Council and the other will be called the Legislative Assembly. If there is only one House, it will be called the Legislative Assembly.

Explanation using Example

Example 1:

State: Maharashtra

Scenario: Maharashtra is one of the states mentioned in Article 168(1)(a) of the Constitution of India. Therefore, it has two Houses in its Legislature.

Application:

The Governor of Maharashtra is part of the Legislature.

The two Houses are:

The Legislative Council (Vidhan Parishad)

The Legislative Assembly (Vidhan Sabha)

Real-life Situation:

A new bill related to agricultural reforms is introduced in the Legislative Assembly (Vidhan Sabha) of Maharashtra.

After thorough discussion and debate, the bill is passed by the Legislative Assembly.

The bill is then sent to the Legislative Council (Vidhan Parishad) for further consideration.

The Legislative Council reviews the bill, suggests amendments, and sends it back to the Legislative Assembly.

The Legislative Assembly considers the amendments, makes necessary changes, and passes the final version of the bill.

The bill is then sent to the Governor for assent.

Once the Governor gives assent, the bill becomes law in Maharashtra.

Example 2:

State: Gujarat

Scenario: Gujarat is not one of the states mentioned in Article 168(1)(a) of the Constitution of India. Therefore, it has only one House in its Legislature.

Application:

The Governor of Gujarat is part of the Legislature.

The single House is known as the Legislative Assembly (Vidhan Sabha).

Real-life Situation:

A new bill related to education reforms is introduced in the Legislative Assembly (Vidhan Sabha) of Gujarat.

The bill is debated and discussed by the members of the Legislative Assembly.



After thorough consideration, the bill is passed by the Legislative Assembly.

Since Gujarat has only one House, the bill does not need to be sent to a Legislative Council.

The bill is then sent directly to the Governor for assent.

Once the Governor gives assent, the bill becomes law in Gujarat.

### **Article 169: Abolition or creation of Legislative Councils in States.**

Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

### **Simplified act**

Even though Article 168 says otherwise, Parliament can make a law to either get rid of a State's Legislative Council or create one if the State's Legislative Assembly agrees. For this to happen, more than half of all the Assembly members must agree, and at least two-thirds of the members who are present and voting must also agree.

Any law made under point (1) must include changes to the Constitution needed to make the law work. It can also include any additional details that Parliament thinks are necessary.

Such a law will not be considered a change to the Constitution under Article 368.

Explanation using Example

Example 1:

Scenario: Abolition of the Legislative Council in the State of Maharashtra

Context: The Legislative Assembly of Maharashtra believes that the Legislative Council is no longer necessary and decides to abolish it.

Process:

The Legislative Assembly of Maharashtra convenes and discusses the matter.

A resolution is proposed to abolish the Legislative Council.

The resolution is passed by a majority of the total membership of the Assembly.

Additionally, the resolution is passed by a majority of not less than two-thirds of the members present and voting.

The resolution is then sent to the Parliament of India.

Parliament enacts a law to abolish the Legislative Council of Maharashtra.

The law includes necessary amendments to the Constitution to give effect to the abolition.

The law also includes any supplemental, incidental, and consequential provisions deemed necessary by Parliament.

The Legislative Council of Maharashtra is officially abolished.

Example 2:

Scenario: Creation of a Legislative Council in the State of Odisha

Context: The Legislative Assembly of Odisha decides that a Legislative Council would be beneficial for the state and proposes its creation.

Process:

The Legislative Assembly of Odisha convenes and discusses the matter.

A resolution is proposed to create a Legislative Council.

The resolution is passed by a majority of the total membership of the Assembly.

Additionally, the resolution is passed by a majority of not less than two-thirds of the members present and voting.

The resolution is then sent to the Parliament of India.

Parliament enacts a law to create the Legislative Council of Odisha.

The law includes necessary amendments to the Constitution to give effect to the creation.

The law also includes any supplemental, incidental, and consequential provisions deemed necessary by Parliament.

The Legislative Council of Odisha is officially created.

**Article 170: Composition of the Legislative Assemblies.**

(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust:

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

### **Simplified act**

(1) According to article 333, each State's Legislative Assembly should have between 60 and 500 members. These members are chosen by direct elections from different areas within the State.

(2) To follow clause (1), each State will be divided into areas in such a way that the number of people in each area and the number of seats for that area are as equal as possible throughout the State.

Note: Until the population figures from the first census after 2026 are published, the population data from the 2001 census will be used.

(3) After each census, the total number of seats in the Legislative Assembly and the division of the State into areas will be adjusted by an authority as decided by Parliament:

Note: This adjustment will not change the representation in the Legislative Assembly until the current Assembly is dissolved.

Note: The adjustment will take effect from a date specified by the President, and until then, elections can be held based on the existing areas.

Note: Until the population figures from the first census after 2026 are published, it is not necessary to adjust:

(i) The total number of seats in the Legislative Assembly based on the 1971 census.

(ii) The division of the State into areas based on the 2001 census.

### **Explanation using Example**

Example 1:

Scenario: State of Maharashtra Legislative Assembly Elections

Details:

Maharashtra is preparing for its Legislative Assembly elections.

According to Article 170, the Legislative Assembly must have between 60 and 500 members.

Maharashtra has been divided into 288 territorial constituencies based on the population data from the 2001 census.

Each constituency is designed to have a roughly equal population to ensure fair representation.

Application:

Citizens of Maharashtra will vote in their respective constituencies to elect 288 members to the Legislative Assembly.

The Election Commission ensures that the ratio of population to seats is consistent across all constituencies.

The current division of constituencies will remain in effect until the next census data (post-2026) is published and new adjustments are made.

Example 2:

Scenario: Redrawing Constituency Boundaries in Uttar Pradesh

Details:

Uttar Pradesh has a large population and its Legislative Assembly consists of 403 members.

After the completion of the next census (post-2026), the state needs to readjust its constituencies.

The readjustment will be based on the latest population data to ensure equal representation.

Application:

The Parliament will determine the authority and manner in which the readjustment will take place.

The President will specify the date from which the new constituency boundaries will take effect.

Until the new boundaries are in place, elections will continue based on the existing constituencies.

This ensures that the representation in the Legislative Assembly remains fair and proportional to the population distribution.

### Example 3:

#### Scenario: Election in a Newly Formed State

##### Details:

A new state, Telangana, has been formed and needs to establish its Legislative Assembly.

According to Article 170, the new state must have between 60 and 500 members in its Legislative Assembly.

The state is divided into 119 constituencies based on the 2001 census data.

##### Application:

The Election Commission organizes elections in these 119 constituencies.

Each constituency is designed to have a similar population size to ensure equal representation.

The number of seats and constituency boundaries will be readjusted after the next census data (post-2026) is available.

This ensures that the new state has a fair and representative Legislative Assembly from the outset.

### **Article 171: Composition of the Legislative Councils.**

#### Legislative Council Composition

(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one-third of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State:

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:

Literature

Science

Art

Co-operative movement

Social service

## **Simplified act**

### Legislative Council Composition

(1) The number of members in the Legislative Council of a State should not be more than one-third of the total members in the Legislative Assembly of that State. However, the Legislative Council must have at least forty members.

(2) Until Parliament decides otherwise, the composition of the Legislative Council will follow the rules in clause (3).

(3) The members of the Legislative Council will be chosen as follows:

(a) About one-third will be elected by members of local authorities like municipalities and district boards, as specified by Parliament.

(b) About one-twelfth will be elected by people who have been graduates of any university in India for at least three years or have equivalent qualifications as defined by Parliament.

(c) About one-twelfth will be elected by people who have been teaching in educational institutions (at least at the secondary school level) in the State for at least three years.

(d) About one-third will be elected by the members of the State Legislative Assembly from people who are not members of the Assembly.

(e) The remaining members will be nominated by the Governor based on their special knowledge or practical experience in areas like Literature, Science, Art, Co-operative movement, and Social service.

(4) The members elected under sub-clauses (a), (b), and (c) of clause (3) will be chosen from specific areas as defined by Parliament. The elections for these sub-clauses and sub-clause (d) will use a proportional representation system with a single transferable vote.

(5) The members nominated by the Governor under sub-clause (e) of clause (3) will be people with special knowledge or practical experience in fields such as:

Literature

Science

Art



Co-operative movement

Social service

Explanation using Example

Example 1:

Scenario: The State of Maharashtra is planning to form its Legislative Council.

Application:

Total Members Calculation:

Maharashtra Legislative Assembly has 288 members.

The Legislative Council can have a maximum of one-third of the Assembly members, which is 96 members.

However, the minimum number of members in the Legislative Council must be 40.

Composition:

One-third (32 members) will be elected by electorates consisting of members of municipalities, district boards, and other local authorities.

One-twelfth (8 members) will be elected by graduates who have been residents of Maharashtra for at least three years.

One-twelfth (8 members) will be elected by teachers who have been teaching in educational institutions within Maharashtra for at least three years.

One-third (32 members) will be elected by the members of the Legislative Assembly of Maharashtra from among persons who are not members of the Assembly.

The remainder (16 members) will be nominated by the Governor of Maharashtra, consisting of persons with special knowledge or practical experience in literature, science, art, cooperative movement, or social service.

Example 2:

Scenario: A graduate named Ramesh, who has been residing in Karnataka for the past five years, wants to understand how he can participate in the election of the Legislative Council members.

Application:

Eligibility:

Ramesh is eligible to vote in the election of the Legislative Council members under clause (3)(b) because he has been a graduate residing in Karnataka for more than three years.

Election Process:

Ramesh will be part of the electorate that elects one-twelfth of the total members of the Karnataka Legislative Council.

The election will be conducted using the system of proportional representation by means of a single transferable vote.

Representation:

Ramesh, along with other graduates, will vote to elect members who will represent the interests of graduates in the Legislative Council.

This ensures that the Legislative Council has members who understand and can advocate for the educational and professional concerns of graduates like Ramesh.

Example 3:

Scenario: The Governor of Tamil Nadu needs to nominate members to the Legislative Council.

Application:

Nomination Criteria:

The Governor will nominate members who have special knowledge or practical experience in literature, science, art, cooperative movement, or social service.

Selection Process:

The Governor identifies individuals who have made significant contributions in these fields.

For instance, Dr. Meera, a renowned scientist, and Mr. Arjun, a social worker with extensive experience in rural development, are nominated to the Legislative Council.

Impact:

The nominated members bring their expertise and experience to the Legislative Council, enriching the legislative process with their specialized knowledge.

This ensures that the Council benefits from diverse perspectives and informed decision-making in various areas of public interest.

### **Article 172: Duration of State Legislatures.**

Legislative Assembly and Legislative Council

(1) Every Legislative Assembly of every State, 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 is in operation, be extended by Parliament by law 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.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

### **Simplified act**

Legislative Assembly and Legislative Council

(1) Every State's Legislative Assembly will last for five years from its first meeting date, unless it is dissolved earlier. After five years, the Assembly will automatically dissolve:

However, if there is an Emergency declared, Parliament can extend this period by up to one year at a time, but not more than six months after the Emergency ends.

(2) The Legislative Council of a State does not dissolve. Instead, about one-third of its members will retire every two years, following rules set by Parliament.

Explanation using Example

Example 1:

In the state of Maharashtra, the Legislative Assembly was elected and held its first meeting on January 1, 2020. According to Article 172, the Assembly is set to continue for five years, meaning it will function until January 1, 2025. However, if a Proclamation of Emergency is declared by the President of India during this period, Parliament can extend the Assembly's term by one year at a time. For instance, if an emergency is declared in 2023, Parliament can pass a law to extend the Assembly's term to January 1, 2026. But this extension cannot go beyond six months after the emergency proclamation has ended.

Example 2:

In the state of Karnataka, the Legislative Council is a permanent body and does not dissolve like the Legislative Assembly. Instead, one-third of its members retire every two years. Suppose the Legislative Council has 75 members. Approximately 25 members will retire every two years, and new members will be elected or nominated to replace them. This ensures continuity in the functioning of the Legislative Council, unlike the Legislative Assembly, which has a fixed term of five years.

### **Article 173: Qualification for membership of the State Legislature.**

A person shall not be qualified to be chosen to fill a seat in the Legislature of a State 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 Third Schedule;
- (b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

### **Simplified act**

A person cannot be chosen to be a member of a State Legislature unless they:

- (a) are a citizen of India, and take an oath or make a promise in front of a person authorized by the Election Commission, following the form given in the Third Schedule;

(b) are at least 25 years old for a seat in the Legislative Assembly, and at least 30 years old for a seat in the Legislative Council; and

(c) have any other qualifications required by laws made by Parliament.

Explanation using Example

Example 1:

Ravi, a 28-year-old Indian citizen, wishes to contest in the upcoming elections for a seat in the Legislative Assembly of Maharashtra. To qualify, Ravi must:

Be a citizen of India.

Make and subscribe an oath or affirmation before an authorized person by the Election Commission, as per the form set out in the Third Schedule.

Be at least 25 years old (which he is, being 28).

Meet any additional qualifications prescribed by law.

Since Ravi meets all these criteria, he is eligible to contest for a seat in the Legislative Assembly.

Example 2:

Priya, a 32-year-old Indian citizen, is interested in becoming a member of the Legislative Council in Karnataka. To qualify, Priya must:

Be a citizen of India.

Make and subscribe an oath or affirmation before an authorized person by the Election Commission, as per the form set out in the Third Schedule.

Be at least 30 years old (which she is, being 32).

Meet any additional qualifications prescribed by law.

Since Priya meets all these criteria, she is eligible to contest for a seat in the Legislative Council.

**Article 174: Sessions of the State Legislature, prorogation and dissolution.**

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but

six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time -

(a) prorogue the House or either House;

(b) dissolve the Legislative Assembly.

### **Simplified act**

(1) The Governor will call the State Legislature (or each House of it) to meet at a time and place he decides. However, there cannot be more than six months between the last meeting of one session and the first meeting of the next session.

(2) The Governor can also:

(a) end a session of the House or either House temporarily (prorogue);

(b) dissolve the Legislative Assembly, meaning to end it completely so that new elections can be held.

Explanation using Example

Example 1:

Scenario: The Legislative Assembly of the State of Maharashtra has just concluded its budget session on March 31st, 2023.

Application of Article 174:

The Governor of Maharashtra must ensure that the next session of the Legislative Assembly is convened within six months, i.e., by September 30th, 2023. This is to ensure that there is no gap of more than six months between two sessions of the Legislative Assembly.

The Governor decides to summon the next session on August 1st, 2023, at the Vidhan Bhavan in Mumbai.

Outcome: The Governor's action complies with Article 174(1) as the next session is convened within the six-month period.

Example 2:

Scenario: The Legislative Assembly of the State of Karnataka is currently in session, but due to political instability, the ruling party loses its majority.

Application of Article 174:

The Governor of Karnataka, assessing the situation, decides to prorogue the current session of the Legislative Assembly to prevent further chaos and allow time for political negotiations.

After a few weeks, the political situation does not improve, and the Governor decides to dissolve the Legislative Assembly to pave the way for fresh elections.

Outcome: The Governor's actions of proroguing the session and subsequently dissolving the Legislative Assembly are in accordance with Article 174(2)(a) and 174(2)(b), respectively. This allows for the resolution of the political crisis through new elections.

### **Article 175: Right of Governor to address and send messages to the House or Houses.**

(1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

### **Simplified act**

(1) The Governor can speak to the Legislative Assembly or, if the State has a Legislative Council, to either House of the State Legislature, or to both Houses together. The Governor can also ask the members to attend for this purpose.

(2) The Governor can send messages to the House or Houses of the State Legislature about a Bill that is currently being discussed or about other matters. The House that receives the message must quickly consider the issues mentioned in the message.

Explanation using Example

### Example 1:

Scenario: The Governor's Address at the Beginning of the Legislative Session

Context: At the beginning of the legislative session in the state of Maharashtra, the Governor decides to address both the Legislative Assembly and the Legislative Council.

Application:

The Governor of Maharashtra, Bhagat Singh Koshyari, decides to address both Houses of the State Legislature at the start of the new legislative session.

He requires the attendance of all members of both the Legislative Assembly and the Legislative Council.

During his address, he outlines the government's agenda, key policies, and legislative priorities for the upcoming year.

This address sets the tone for the legislative session and provides a roadmap for the state's governance.

### Example 2:

Scenario: Governor Sending a Message Regarding a Pending Bill

Context: A bill related to environmental protection is pending in the Legislative Assembly of Karnataka. The Governor has specific recommendations to make regarding this bill.

Application:

The Governor of Karnataka, Thawar Chand Gehlot, sends a message to the Legislative Assembly regarding the pending environmental protection bill.

In his message, the Governor suggests certain amendments to strengthen the bill, such as stricter penalties for violations and more robust mechanisms for enforcement.

The Legislative Assembly, upon receiving the Governor's message, is required to consider the recommendations with all convenient despatch.

The Assembly debates the suggested amendments and incorporates some of them into the bill before passing it.

### Example 3:



Scenario: Governor Addressing a Special Session on Public Health Crisis

Context: Due to a sudden outbreak of a contagious disease, the state of Kerala calls for a special session of the Legislature to discuss urgent public health measures.

Application:

The Governor of Kerala, Arif Mohammad Khan, decides to address the special session of the Legislative Assembly.

He requires the attendance of all members to discuss the critical public health crisis.

In his address, the Governor emphasizes the need for immediate legislative action to allocate funds for healthcare, enforce quarantine measures, and support affected citizens.

The address helps to unify the legislative members and expedite the passage of necessary emergency measures to combat the outbreak.

Example 4:

Scenario: Governor Sending a Message on Budget Proposals

Context: The state of Tamil Nadu is in the process of finalizing its annual budget, and the Governor has some important suggestions to ensure fiscal responsibility.

Application:

The Governor of Tamil Nadu, R. N. Ravi, sends a message to the Legislative Assembly regarding the budget proposals.

In his message, the Governor highlights the need for increased funding for education and healthcare while recommending cuts in non-essential expenditures.

The Legislative Assembly receives the message and considers the Governor's suggestions during the budget discussions.

The Assembly makes adjustments to the budget proposals based on the Governor's recommendations, ensuring a more balanced and responsible fiscal plan for the state.

## **Article 176: Special address by the Governor.**

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address \* \* \*.

### **Simplified act**

(1) At the start of the first meeting after each general election to the Legislative Assembly and at the start of the first meeting of each year, the Governor will speak to the Legislative Assembly or, if the State has a Legislative Council, to both Houses together. The Governor will explain why the Legislature has been called to meet.

(2) The rules of the House or either House will include provisions for setting aside time to discuss the topics mentioned in the Governor's speech.

Explanation using Example

Example 1:

Scenario: After a General Election in the State of Maharashtra

Context: The state of Maharashtra has just concluded its general elections, and a new Legislative Assembly has been formed. According to Article 176 of the Constitution of India, the Governor of Maharashtra is required to address the newly formed Legislative Assembly at the commencement of its first session.

Application:

Event: The first session of the newly elected Legislative Assembly of Maharashtra is scheduled to begin.

Governor's Address: The Governor of Maharashtra, Bhagat Singh Koshiyari, addresses the Assembly. In his speech, he outlines the government's agenda, key policies, and the reasons for summoning the session.

Discussion: Following the Governor's address, the members of the Legislative Assembly discuss the points raised in the speech. This discussion is regulated by the rules of procedure of the House, ensuring that adequate time is allotted for members to debate the issues mentioned by the Governor.

Example 2:

Scenario: Annual Session of the Legislative Assembly in Karnataka

Context: It is the beginning of a new year, and the Karnataka Legislative Assembly is about to commence its first session of the year. As per Article 176, the Governor of Karnataka is required to address the Assembly at the start of this session.

Application:

Event: The first session of the year for the Karnataka Legislative Assembly is about to begin.

Governor's Address: The Governor of Karnataka, Thawar Chand Gehlot, delivers an address to the Assembly. In his speech, he highlights the achievements of the past year, outlines the government's plans for the upcoming year, and explains the reasons for convening the session.

Discussion: The members of the Karnataka Legislative Assembly engage in a discussion about the Governor's address. The rules of procedure of the House ensure that sufficient time is allocated for this discussion, allowing members to express their views and debate the matters raised by the Governor.

Example 3:

Scenario: First Session of the Year in a State with a Legislative Council - Uttar Pradesh

Context: Uttar Pradesh has both a Legislative Assembly and a Legislative Council. It is the beginning of the year, and the first session of the year is about to commence. According to Article 176, the Governor must address both Houses assembled together.

Application:

Event: The first session of the year for the Uttar Pradesh Legislature is about to begin, with both the Legislative Assembly and the Legislative Council assembled together.

Governor's Address: The Governor of Uttar Pradesh, Anandiben Patel, addresses the joint session of both Houses. In her speech, she discusses the government's priorities, legislative agenda, and the reasons for summoning the session.

Discussion: Members of both the Legislative Assembly and the Legislative Council participate in a discussion about the Governor's address. The rules of procedure for both Houses ensure that adequate time is provided for this discussion, allowing members to debate the issues raised by the Governor comprehensively.

### **Article 177: Rights of Ministers and Advocate-General as respects the Houses.**

Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

### **Simplified act**

Every Minister and the Advocate-General for a State have the right to:

Speak in the Legislative Assembly of the State.

Participate in the proceedings of the Legislative Assembly.

If the State has a Legislative Council, they can also speak and participate in both Houses.

Speak and take part in any committee of the Legislature if they are a member of that committee.

However, they do not have the right to vote just because of this article.

Explanation using Example

Example 1:

Scenario: The Chief Minister of Maharashtra wants to address the Legislative Assembly regarding a new policy on agricultural subsidies.

Application of Article 177: The Chief Minister, being a Minister, has the right to speak in the Legislative Assembly of Maharashtra. He can present the details of the new policy, answer questions from other members, and participate in discussions. However, he does not have the right to vote on any resolutions or bills related to the policy.

Example 2:

Scenario: The Advocate-General of Karnataka is invited to a committee meeting to discuss a proposed amendment to the state's criminal law.

Application of Article 177: The Advocate-General has the right to attend the committee meeting, provide legal opinions, and participate in the discussions. He can explain the legal implications of the proposed amendment and suggest changes. However, he cannot vote on the committee's final recommendations or decisions.

Example 3:

Scenario: A Minister in the Uttar Pradesh government wants to participate in a debate in the Legislative Council about the state's budget allocation for education.

Application of Article 177: The Minister has the right to speak and take part in the debate in the Legislative Council. He can present arguments, provide data, and respond to questions from other members. Despite his active participation, he does not have the right to vote on the budget allocation.

Example 4:

Scenario: The Advocate-General of Tamil Nadu is named a member of a special legislative committee formed to review environmental laws.

Application of Article 177: As a member of the special legislative committee, the Advocate-General can attend all meetings, contribute to discussions, and provide legal advice on environmental laws. He can help draft the committee's report and recommendations. However, he cannot vote on the final decisions or recommendations made by the committee.

### **CHAPTER III: THE STATE LEGISLATURE**

#### **Officers of the State Legislature**

#### **Article 178: The Speaker and Deputy Speaker of the Legislative Assembly.**

- Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

### **Simplified act**

Every State Legislative Assembly must quickly choose two members to be the Speaker and Deputy Speaker.

If the position of Speaker or Deputy Speaker becomes empty, the Assembly must choose another member to fill that position.

Explanation using Example

Example 1:

In the state of Maharashtra, after the general elections, the newly elected members of the Legislative Assembly convene for their first session. One of the first orders of business is to elect a Speaker and a Deputy Speaker. The members nominate candidates for these positions, and through a voting process, Mr. A is elected as the Speaker and Ms. B as the Deputy Speaker. A few months later, Mr. A resigns from his position as Speaker due to personal reasons. The Assembly then holds another election to choose a new Speaker, and Mr. C is elected to fill the vacancy.

Example 2:

In the state of Karnataka, the Legislative Assembly is in session when the Deputy Speaker, Mr. D, unfortunately passes away. According to Article 178 of the Constitution of India, the Assembly must elect a new Deputy Speaker as soon as possible. The members of the Assembly nominate several candidates, and after a voting process, Ms. E is elected as the new Deputy Speaker. This ensures that the Assembly continues to function smoothly with both a Speaker and a Deputy Speaker in place.

### **Article 179: Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.**

A member holding office as Speaker or Deputy Speaker of an Assembly:

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

### **Simplified act**

A person who is serving as the Speaker or Deputy Speaker of an Assembly:

(a) will have to leave their position if they are no longer a member of the Assembly;

(b) can resign from their position at any time by writing a resignation letter. If the person is the Speaker, they should address the letter to the Deputy Speaker. If the person is the Deputy Speaker, they should address the letter to the Speaker; and

(c) can be removed from their position if the Assembly passes a resolution with a majority vote of all its current members:

However, a resolution to remove the Speaker or Deputy Speaker (as mentioned in clause (c)) cannot be proposed unless at least fourteen days' notice has been given about the intention to propose such a resolution.

Additionally, if the Assembly is dissolved, the Speaker will not leave their position until just before the first meeting of the new Assembly after the dissolution.

### **Explanation using Example**

#### **Example 1:**

Mr. Rajesh is the Speaker of the Legislative Assembly of the state of Maharashtra. He has been serving in this position for the past two years.

However, due to personal reasons, he decides to resign from his position. According to Article 179(b) of the Constitution of India, Mr. Rajesh can resign by writing a resignation letter addressed to the Deputy Speaker. He submits his resignation letter, and it is accepted, leading to the vacation of his office as Speaker.

**Example 2:**

Ms. Priya is the Deputy Speaker of the Legislative Assembly of the state of Karnataka. During a recent election, she loses her seat as a member of the Assembly. According to Article 179(a) of the Constitution of India, since she is no longer a member of the Assembly, she must vacate her office as Deputy Speaker. Consequently, her position as Deputy Speaker is automatically vacated.

**Example 3:**

Mr. Anil is the Speaker of the Legislative Assembly of the state of Tamil Nadu. Some members of the Assembly are dissatisfied with his performance and decide to remove him from office. They gather support and draft a resolution for his removal. According to Article 179(c) of the Constitution of India, they must give at least fourteen days' notice before moving the resolution. After the notice period, the resolution is moved and passed by a majority of all the members of the Assembly. As a result, Mr. Anil is removed from his office as Speaker.

**Example 4:**

The Legislative Assembly of the state of Gujarat is dissolved due to the end of its term. Mr. Suresh is the current Speaker of the Assembly. According to the second proviso of Article 179, Mr. Suresh will not vacate his office immediately upon the dissolution of the Assembly. Instead, he will continue to hold the office of Speaker until immediately before the first meeting of the new Assembly after the elections.

**Article 180: Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.**

(1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.



(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

### **Simplified act**

(1) If there is no Speaker, the Deputy Speaker will take over the Speaker's duties. If there is no Deputy Speaker either, the Governor will choose a member of the Assembly to do the job.

(2) If the Speaker is not present at a meeting of the Assembly, the Deputy Speaker will take over. If the Deputy Speaker is also not there, the person chosen by the Assembly's rules will act as Speaker. If no such person is available, the Assembly will decide who will act as Speaker.

Explanation using Example

Example 1:

Scenario: The Speaker of the State Legislative Assembly of Maharashtra resigns from office, and the position becomes vacant.

Application of Article 180(1):

The Deputy Speaker of the Maharashtra Legislative Assembly will automatically take over the duties of the Speaker.

If the Deputy Speaker's position is also vacant, the Governor of Maharashtra will appoint a member of the Assembly to perform the duties of the Speaker until a new Speaker is elected.

Example: The Speaker of the Maharashtra Legislative Assembly resigns due to health issues. The Deputy Speaker steps in to perform the Speaker's duties. However, if the Deputy Speaker is also unavailable due to personal reasons, the Governor appoints Mr. Sharma, a senior member of the Assembly, to act as the Speaker temporarily.

Example 2:

Scenario: The Speaker of the Karnataka Legislative Assembly is on an official visit abroad and cannot attend a crucial Assembly session.

Application of Article 180(2):

During the Speaker's absence, the Deputy Speaker will act as the Speaker for the session.

If the Deputy Speaker is also absent, the rules of procedure of the Karnataka Legislative Assembly will determine who will act as the Speaker.

If no such person is specified in the rules, the Assembly will decide who will act as the Speaker.

Example: The Speaker of the Karnataka Legislative Assembly is on an official visit to the United States. The Deputy Speaker is also unavailable due to a family emergency. According to the rules of procedure, Mr. Reddy, the senior-most member present, is designated to act as the Speaker for the session. If the rules did not specify Mr. Reddy, the Assembly members would vote to decide who should act as the Speaker for that session.

**Article 181: The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.**

(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

**Simplified act**

(1) If the Legislative Assembly is discussing whether to remove the Speaker or the Deputy Speaker from their position, the Speaker or Deputy Speaker cannot lead the meeting, even if they are present. Instead, the rules that apply when the Speaker or Deputy Speaker is absent will be followed.

(2) The Speaker has the right to speak and participate in the Assembly's discussions about removing him from office. He can also vote on the matter,

but only the first time. If there is a tie in votes, he cannot vote again to break the tie.

Explanation using Example

Example 1:

Scenario: Removal of the Speaker of the Legislative Assembly

In the state of Maharashtra, a resolution is introduced in the Legislative Assembly to remove the current Speaker, Mr. Sharma, from his office. According to Article 181 of the Constitution of India, Mr. Sharma cannot preside over the Assembly while this resolution is being discussed, even though he is present in the Assembly. Instead, another member, as per the provisions of Article 180(2), will preside over the session. Mr. Sharma, however, retains the right to speak and participate in the debate regarding his removal. He can also cast his vote on the resolution, but he cannot cast a deciding vote in case of a tie.

Example 2:

Scenario: Removal of the Deputy Speaker of the Legislative Assembly

In the state of Karnataka, a resolution is brought forward to remove the Deputy Speaker, Ms. Rao, from her office. During the discussion of this resolution, Ms. Rao is present in the Assembly but is not allowed to preside over the session. Another member, as per Article 180(2), will take over the presiding duties. Ms. Rao can still engage in the debate and express her views on the resolution. She is also allowed to vote on the resolution initially but cannot cast a tie-breaking vote if the votes are equally divided.

### **Article 182: The Chairman and Deputy Chairman of the Legislative Council.**

The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

### **Simplified act**

Every State that has a Legislative Council must quickly choose two members from the Council to be the Chairman and Deputy Chairman. Whenever the

position of Chairman or Deputy Chairman becomes empty, the Council must choose another member to fill that position.

Explanation using Example

Example 1:

Scenario: In the state of Maharashtra, which has a Legislative Council, the term of the current Chairman is coming to an end.

Application: As per Article 182, the Legislative Council of Maharashtra must choose a new Chairman from among its members. The Council holds a meeting where members nominate candidates and then vote to elect the new Chairman. After the election, the newly elected Chairman takes office and begins their duties.

Example 2:

Scenario: The Deputy Chairman of the Legislative Council in Karnataka resigns due to personal reasons, leaving the position vacant.

Application: According to Article 182, the Legislative Council of Karnataka must choose a new Deputy Chairman from among its members. The Council convenes a session to discuss potential candidates. Members of the Council nominate candidates, and a vote is conducted. The member who receives the majority of votes is elected as the new Deputy Chairman and assumes the responsibilities of the office.

**Article 183: Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.**

- A member holding office as Chairman or Deputy Chairman of a Legislative Council -

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

### **Simplified act**

A person who is serving as the Chairman or Deputy Chairman of a Legislative Council -

(a) will have to leave their position if they are no longer a member of the Council;

(b) can resign from their position at any time by writing a letter. If the person is the Chairman, they should address the letter to the Deputy Chairman, and if the person is the Deputy Chairman, they should address the letter to the Chairman; and

(c) can be removed from their position if the Council passes a resolution with a majority vote of all current members:

However, a resolution to remove the Chairman or Deputy Chairman (as mentioned in clause (c)) cannot be proposed unless a notice of at least fourteen days has been given about the intention to propose the resolution.

Explanation using Example

Example 1:

Mr. Sharma is the Chairman of the Legislative Council of a state. He has been serving in this position for the past two years. However, during the recent elections, Mr. Sharma lost his seat as a member of the Legislative Council. According to Article 183(a) of the Constitution of India, Mr. Sharma must vacate his office as Chairman because he is no longer a member of the Council.

Example 2:

Ms. Verma is the Deputy Chairman of the Legislative Council. She has decided to resign from her position due to personal reasons. According to Article 183(b), Ms. Verma can resign by writing a resignation letter addressed to the Chairman of the Legislative Council. Once the Chairman receives her resignation letter, Ms. Verma's resignation will be effective.

Example 3:

Mr. Khan is the Chairman of the Legislative Council. Some members of the Council are dissatisfied with his performance and want to remove him from office. According to Article 183(c), Mr. Khan can be removed from his office by a resolution passed by a majority of all the members of the Council. However, the members must give at least fourteen days' notice before moving the resolution to remove Mr. Khan. After the notice period, if the majority of the Council members vote in favor of the resolution, Mr. Khan will be removed from his position as Chairman.

**Article 184: Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.**

(1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

**Simplified act**

(1) If there is no Chairman, the Deputy Chairman will take over the duties. If there is no Deputy Chairman either, the Governor will choose a Council member to do the job.

(2) If the Chairman is not present at a Council meeting, the Deputy Chairman will take over. If the Deputy Chairman is also not there, the person chosen by the Council's rules will act as Chairman. If no such person is available, the Council will decide who will act as Chairman.

Explanation using Example

Example 1:

The Chairman of the Legislative Council of Maharashtra resigns from his position, leaving the office vacant. According to Article 184(1) of the Constitution of India, the Deputy Chairman steps in to perform the duties of the Chairman. However, if the Deputy Chairman is also unavailable due to illness, the Governor of Maharashtra appoints a senior member of the Council

to temporarily take over the Chairman's responsibilities until a new Chairman is elected.

Example 2:

The Chairman of the Legislative Council of Karnataka is on a two-week vacation and cannot attend the Council's sessions. During his absence, the Deputy Chairman takes over the role of presiding over the Council meetings as per Article 184(2). If the Deputy Chairman is also unavailable due to a family emergency, the Council follows its rules of procedure to appoint another member to act as Chairman. If no such member is specified in the rules, the Council collectively decides on a suitable member to act as Chairman for the duration of the Chairman's absence.

**Article 185: The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.**

(1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

**Simplified act**

(1) If the Legislative Council is discussing whether to remove the Chairman or Deputy Chairman from their position, that person (Chairman or Deputy Chairman) cannot lead the meeting, even if they are present. Instead, the rules that apply when the Chairman or Deputy Chairman is not there will be followed.

(2) The Chairman has the right to speak and participate in the discussions when the Council is considering his removal. He can vote on the resolution or

any other matter during these discussions, but he can only vote once and cannot cast a deciding vote if there is a tie.

#### Explanation using Example

##### Example 1:

##### Scenario: Removal of the Chairman of the Legislative Council

Mr. Sharma is the Chairman of the Legislative Council in the state of Maharashtra. Some members of the council believe that Mr. Sharma has been acting inappropriately and have submitted a resolution for his removal from office.

##### Application of Article 185:

During the council meeting where this resolution is being discussed, Mr. Sharma, although present, is not allowed to preside over the meeting.

Instead, another member, as per the provisions of clause (2) of article 184, will preside over the meeting.

Mr. Sharma, however, has the right to speak and participate in the discussions regarding his removal.

He can also cast his vote on the resolution in the first instance but cannot cast a deciding vote in case of a tie.

##### Example 2:

##### Scenario: Removal of the Deputy Chairman of the Legislative Council

Ms. Rao is the Deputy Chairman of the Legislative Council in the state of Karnataka. A resolution has been brought forward by some council members to remove her from office due to allegations of misconduct.

##### Application of Article 185:

During the council session where the resolution for Ms. Rao's removal is being considered, Ms. Rao, even if she is present, cannot preside over the session.

Another member will take over the role of presiding officer for this session, as per the rules outlined in clause (2) of article 184.

Ms. Rao is allowed to speak and participate in the debate about her removal.



She is also entitled to vote on the resolution initially but does not have the right to cast a tie-breaking vote if the votes are equally divided.

**Article 186: Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.**

There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

**Simplified act**

The Speaker and Deputy Speaker of the Legislative Assembly, and the Chairman and Deputy Chairman of the Legislative Council, will receive salaries and allowances.

These salaries and allowances will be decided by the State Legislature through a law.

Until such a law is made, the salaries and allowances mentioned in the Second Schedule will apply.

Explanation using Example

Example 1:

Scenario: The Legislative Assembly of Maharashtra decides to revise the salaries and allowances of its Speaker and Deputy Speaker.

Application: The Maharashtra State Legislature passes a new law that increases the monthly salary of the Speaker to ₹2,50,000 and the Deputy Speaker to ₹2,00,000. Additionally, they are entitled to allowances for housing, travel, and office expenses as specified in the new law. Until this new law is enacted, the Speaker and Deputy Speaker continue to receive the salaries and allowances as specified in the Second Schedule of the Constitution of India.

Example 2:

Scenario: The Legislative Council of Karnataka has not yet passed a specific law regarding the salaries and allowances of its Chairman and Deputy Chairman.

Application: Since the Karnataka State Legislature has not enacted a specific law to fix the salaries and allowances of the Chairman and Deputy Chairman of the Legislative Council, they continue to receive the salaries and allowances as specified in the Second Schedule of the Constitution of India. This ensures that the Chairman and Deputy Chairman are compensated fairly until the state legislature decides to pass a law with new provisions.

### **Article 187: Secretariat of State Legislature.**

(1) The House or each House of the Legislature of a State shall have a separate secretarial staff:

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

### **Simplified act**

(1) Each House in a State's Legislature will have its own separate secretarial staff:

However, if a State has both a Legislative Assembly and a Legislative Council, they can still create shared positions for both Houses.

(2) The State Legislature can make laws about how to hire people and what their job conditions will be for the secretarial staff of the House or Houses.

(3) Until the State Legislature makes such laws, the Governor can make rules about hiring and job conditions for the secretarial staff, but only after talking to the Speaker of the Legislative Assembly or the Chairman of the Legislative

Council. These rules will apply until the State Legislature makes its own laws on the matter.

#### Explanation using Example

##### Example 1:

Scenario: Recruitment of Secretarial Staff in a State with a Legislative Council

Context: The state of Maharashtra has both a Legislative Assembly and a Legislative Council. The state legislature has not yet passed a law regulating the recruitment and conditions of service for the secretarial staff.

Application of Article 187:

Separate Secretarial Staff: The Legislative Assembly and the Legislative Council each have their own secretarial staff to handle their respective administrative tasks.

Common Posts: Despite having separate staffs, certain posts such as the Chief Librarian or IT Support may be common to both Houses.

Governor's Role: Since the state legislature has not yet made provisions under clause (2), the Governor of Maharashtra, after consulting with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, creates rules for recruiting and managing the secretarial staff. These rules will remain in effect until the state legislature enacts a law on the matter.

##### Example 2:

Scenario: Regulation of Service Conditions for Secretarial Staff in a State without a Legislative Council

Context: The state of Kerala has only a Legislative Assembly and no Legislative Council. The state legislature has passed a law regulating the recruitment and conditions of service for the secretarial staff.

Application of Article 187:

Separate Secretarial Staff: The Legislative Assembly has its own dedicated secretarial staff to manage its administrative functions.

State Legislature's Law: The Kerala state legislature has enacted a law that specifies the recruitment process, qualifications, pay scales, and other service conditions for the secretarial staff of the Legislative Assembly.

Governor's Role: Since the state legislature has already made provisions under clause (2), the Governor does not need to create any rules regarding the recruitment and service conditions of the secretarial staff. The law passed by the state legislature is fully in effect and governs these aspects.

Example 3:

Scenario: Temporary Rules by Governor in a Newly Formed State

Context: A new state, Telangana, has been formed and has both a Legislative Assembly and a Legislative Council. The state legislature has not yet had the opportunity to pass a law regulating the recruitment and conditions of service for the secretarial staff.

Application of Article 187:

Separate Secretarial Staff: Both the Legislative Assembly and the Legislative Council of Telangana have their own secretarial staff.

Governor's Temporary Rules: Since the state legislature has not yet made provisions under clause (2), the Governor of Telangana, after consulting with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, issues temporary rules for recruiting and managing the secretarial staff. These rules will be in place until the state legislature enacts a law on the matter.

Future Legislation: The state legislature of Telangana is expected to eventually pass a law that will regulate the recruitment and conditions of service for the secretarial staff, at which point the Governor's temporary rules will be superseded by the new law.

## **CONDUCT OF BUSINESS**

### **Article 188: Oath or affirmation by members.**

Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

### **Simplified act**

Every member of the Legislative Assembly or the Legislative Council of a State must take an oath or make a promise before they can start their job.

This oath or promise must be made in front of the Governor or someone the Governor chooses.

The exact words for the oath or promise are given in the Third Schedule.

Explanation using Example

Example 1:

Rajesh has been elected as a Member of the Legislative Assembly (MLA) in the state of Maharashtra. Before he can officially start his duties and participate in legislative sessions, he must take an oath or make an affirmation. Rajesh is required to do this in front of the Governor of Maharashtra or a person appointed by the Governor for this purpose. The oath or affirmation will follow the specific format provided in the Third Schedule of the Constitution of India. Only after completing this process can Rajesh take his seat in the Legislative Assembly and begin his work as an MLA.

Example 2:

Anita has been nominated as a Member of the Legislative Council (MLC) in the state of Karnataka. Before she can assume her role and engage in legislative activities, she must make and subscribe to an oath or affirmation. This ceremony is conducted before the Governor of Karnataka or an individual designated by the Governor. The wording of the oath or affirmation is prescribed in the Third Schedule of the Constitution of India. Once Anita has taken the oath or made the affirmation, she is officially recognized as an MLC and can participate in the legislative processes of the state.

**Article 189: Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.**

Article - Voting and Quorum in State Legislature

(1) Save as otherwise provided in this Constitution, all questions at any sitting of a House of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such. The Speaker or Chairman, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings

in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

### **Simplified act**

#### Article - Voting and Quorum in State Legislature

(1) Unless stated otherwise in the Constitution, all decisions in a State Legislature meeting are made by a majority vote of the members who are present and voting. The Speaker or Chairman, or anyone acting in that role, does not vote initially but can cast a deciding vote if there is a tie.

(2) The State Legislature can continue to function even if there are vacancies among its members. Any decisions made are still valid even if it is later found out that someone who wasn't supposed to participate did so.

(3) Until the State Legislature decides otherwise, a meeting can only take place if at least ten members or one-tenth of the total members (whichever is more) are present.

(4) If there are not enough members present during a meeting of the Legislative Assembly or Legislative Council, the Speaker or Chairman, or anyone acting in that role, must either adjourn the meeting or pause it until enough members are present.

#### Explanation using Example

##### Example 1:

Scenario: Voting on a New Education Bill in the State Legislature

The State Legislature of Maharashtra is holding a session to vote on a new Education Bill. There are 288 members in the Legislative Assembly. During the session, 150 members are present and voting.

**Majority Vote:** The bill will be passed if more than half of the members present and voting (i.e., more than 75 members) vote in favor of the bill.

**Speaker's Role:** The Speaker of the Legislative Assembly does not vote initially. However, if the votes are tied (e.g., 75 in favor and 75 against), the Speaker will cast a deciding vote to break the tie.

Example 2:

**Scenario: Validity of Proceedings Despite Vacancies**

In the Legislative Assembly of Karnataka, there are currently 10 vacant seats out of 224 total seats due to resignations. Despite these vacancies, the Assembly continues to function and pass laws.

**Power to Act:** The Assembly can still conduct its business and pass laws even though there are vacancies. The validity of the proceedings is not affected by the vacancies.

**Subsequent Discovery:** If it is later discovered that a person who was not entitled to vote participated in the proceedings, the decisions made during those proceedings remain valid.

Example 3:

**Scenario: Quorum Requirement for a Meeting**

The Legislative Assembly of Tamil Nadu has 234 members. For a meeting to be valid, the quorum requirement must be met.

**Quorum Calculation:** The quorum is either 10 members or one-tenth of the total number of members, whichever is greater. In this case, one-tenth of 234 is 23.4, so the quorum is 24 members.

**Action on Lack of Quorum:** If, during a meeting, it is found that fewer than 24 members are present, the Speaker must either adjourn the meeting or suspend it until the quorum is met.

Example 4:

**Scenario: Adjournment Due to Lack of Quorum**

During a session of the Legislative Council of Uttar Pradesh, which has 100 members, only 8 members are present.

Quorum Requirement: The quorum for the meeting is 10 members (since 10 is greater than one-tenth of 100).

Speaker's Duty: The Chairman notices the lack of quorum and announces that the meeting is suspended until more members arrive to meet the quorum requirement.

Example 5:

Scenario: Casting Vote by the Speaker

In the Legislative Assembly of West Bengal, a vote is being held on a new healthcare policy. Out of 294 members, 150 are present and voting. The votes are tied with 75 members in favor and 75 against.

Speaker's Casting Vote: The Speaker, who did not vote initially, now exercises the casting vote to break the tie. The Speaker votes in favor of the policy, and the healthcare policy is passed.

### **Disqualifications of Members**

#### **Article 190: Vacation of seats.**

(1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one house or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State -

(a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2) of article 191; or



(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be, his seat shall thereupon become vacant:

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

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House 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 House is prorogued or is adjourned for more than four consecutive days.

### **Simplified act**

(1) No person can be a member of both Houses of the Legislature of a State at the same time. If someone is chosen for both, the State Legislature must make a law for that person to leave one of the seats.

(2) No person can be a member of the Legislatures of two or more States listed in the First Schedule. If someone is chosen for the Legislatures of two or more States, their seats will become vacant after a certain period set by the President, unless they resign from all but one of the States before that time.

(3) If a member of a House of the Legislature of a State:

(a) becomes disqualified as mentioned in article 191(1) or 191(2); or

(b) resigns by writing to the Speaker or Chairman, and the resignation is accepted, their seat will become vacant:

However, if the Speaker or Chairman believes the resignation is not voluntary or genuine after an inquiry, they will not accept the resignation.

(4) If a member of a House of the Legislature of a State is absent from all meetings for sixty days without permission, the House can declare their seat vacant:

Note that the sixty days do not include any period when the House is on a break or adjourned for more than four consecutive days.

## Explanation using Example

### Example 1:

Rajesh is elected as a Member of the Legislative Assembly (MLA) in the state of Maharashtra. A few months later, he is also elected as a Member of the Legislative Council (MLC) in the same state. According to Article 190(1) of the Constitution of India, Rajesh cannot hold seats in both Houses of the Legislature of Maharashtra simultaneously. He must vacate one of the seats. The state legislature will have provisions in place to ensure that Rajesh resigns from one of the positions.

### Example 2:

Anita is elected as an MLA in the state of Karnataka. She is also elected as an MLA in the state of Tamil Nadu. According to Article 190(2), Anita cannot be a member of the legislatures of two different states. She must resign from one of the positions within a specified period as determined by rules made by the President of India. If she fails to do so, her seats in both states will become vacant.

### Example 3:

Vikram, an MLA in the state of Gujarat, is found guilty of corruption charges, which is a disqualification under Article 191(1). According to Article 190(3)(a), Vikram's seat will become vacant due to this disqualification.

### Example 4:

Sunita, an MLC in the state of West Bengal, decides to resign from her position. She writes a resignation letter addressed to the Chairman of the Legislative Council. According to Article 190(3)(b), her seat will become vacant once the Chairman accepts her resignation. However, if the Chairman believes that Sunita's resignation is not voluntary or genuine, he may refuse to accept it after conducting an inquiry.

### Example 5:

Ramesh, an MLA in the state of Uttar Pradesh, has been absent from all meetings of the Legislative Assembly for over sixty days without permission. According to Article 190(4), the Legislative Assembly may declare Ramesh's seat vacant. However, the period during which the Assembly was prorogued or

adjourned for more than four consecutive days will not be counted in the sixty-day period.

### **Article 191: Disqualifications for membership.**

#### Disqualification for Membership

(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State:

(a) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament.

Explanation: For the purposes of this clause, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.

### **Simplified act**

#### Disqualification for Membership

(1) A person cannot be chosen as, or be, a member of the Legislative Assembly or Legislative Council of a State if:

(a) they hold a job that earns them money from the Government of India or any State Government listed in the First Schedule, unless the State Legislature has made a law saying that job does not disqualify them;

(b) they have been declared mentally unfit by a court;

- (c) they are bankrupt and have not been released from their debts;
- (d) they are not an Indian citizen, or they have willingly become a citizen of another country, or they are loyal to another country;
- (e) they are disqualified by any law made by Parliament.

Explanation: For this rule, a person is not considered to hold a job that earns them money from the Government of India or any State Government just because they are a Minister for the Union or for such State.

(2) A person cannot be a member of the Legislative Assembly or Legislative Council of a State if they are disqualified under the Tenth Schedule.

Explanation using Example

Example 1:

Rajesh is a successful businessman who decides to run for a seat in the Legislative Assembly of Maharashtra. However, Rajesh also holds a position as the Chairman of a government-owned corporation. According to Article 191(1)(a) of the Constitution of India, Rajesh is disqualified from being chosen as a member of the Legislative Assembly because he holds an office of profit under the Government of Maharashtra. To be eligible, Rajesh would need to resign from his position as Chairman before contesting the election.

Example 2:

Meena, a resident of Karnataka, has been declared of unsound mind by a competent court due to a severe mental health condition. Despite her interest in politics and her desire to serve as a member of the Legislative Council, Article 191(1)(b) disqualifies her from being chosen as a member because she has been declared of unsound mind by a court.

Example 3:

Suresh, a citizen of India, decides to acquire citizenship of Canada for better opportunities. After acquiring Canadian citizenship, Suresh wishes to contest in the elections for the Legislative Assembly of Tamil Nadu. According to Article 191(1)(d), Suresh is disqualified from being chosen as a member because he has voluntarily acquired the citizenship of a foreign State.

Example 4:

Anita, a resident of West Bengal, is declared an undischarged insolvent by a competent court due to her inability to pay off her debts. Despite her aspirations to become a member of the Legislative Assembly, Article 191(1)(c) disqualifies her from being chosen as a member because she is an undischarged insolvent.

Example 5:

Vikram, a member of the Legislative Assembly of Uttar Pradesh, decides to join a foreign political organization and publicly acknowledges his allegiance to that organization. According to Article 191(1)(d), Vikram is disqualified from being a member of the Legislative Assembly because he has acknowledged allegiance to a foreign State.

Example 6:

Priya, a member of the Legislative Assembly of Gujarat, is found guilty of corruption under a law made by Parliament. According to Article 191(1)(e), Priya is disqualified from being a member of the Legislative Assembly because she is disqualified under a law made by Parliament.

Example 7:

Ravi, a member of the Legislative Assembly of Rajasthan, decides to switch his political party after being elected. According to the Tenth Schedule of the Constitution, which deals with disqualification on the grounds of defection, Ravi is disqualified from being a member of the Legislative Assembly as per Article 191(2).

## **Article 192: Decision on questions as to disqualifications of members.**

### Disqualification of Members

(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

### **Simplified act**

## Disqualification of Members

(1) If there is any doubt about whether a member of a State Legislature has become disqualified as mentioned in clause (1) of article 191, the matter will be decided by the Governor. The Governor's decision will be final.

(2) Before making a decision, the Governor must get the opinion of the Election Commission and follow their advice.

### Explanation using Example

#### Example 1:

Scenario: A member of the Legislative Assembly (MLA) in the state of Maharashtra is accused of holding an office of profit, which is a disqualification under Article 191(1) of the Constitution of India.

#### Process:

Question Arises: A complaint is filed by another MLA alleging that the accused MLA is holding an office of profit.

Referral to Governor: The Speaker of the Legislative Assembly refers the question to the Governor of Maharashtra.

Governor's Action: The Governor seeks the opinion of the Election Commission of India on whether the accused MLA is indeed holding an office of profit.

Election Commission's Opinion: The Election Commission conducts an inquiry and provides its opinion to the Governor.

Governor's Decision: Based on the opinion of the Election Commission, the Governor decides that the accused MLA is disqualified from being a member of the Legislative Assembly.

Finality: The Governor's decision is final and binding.

#### Example 2:

Scenario: A member of the Legislative Council (MLC) in the state of Karnataka is alleged to have acquired foreign citizenship, which is a disqualification under Article 191(1) of the Constitution of India.

#### Process:

**Question Arises:** A public interest litigation (PIL) is filed in the High Court of Karnataka, questioning the MLC's eligibility due to alleged foreign citizenship.

**Referral to Governor:** The High Court directs the matter to the Governor of Karnataka for a decision.

**Governor's Action:** The Governor requests the opinion of the Election Commission of India on the matter.

**Election Commission's Opinion:** The Election Commission investigates the claim and submits its opinion to the Governor.

**Governor's Decision:** The Governor, acting on the Election Commission's opinion, decides that the MLC is disqualified from holding the position due to foreign citizenship.

**Finality:** The Governor's decision is final and cannot be challenged.

**Example 3:**

**Scenario:** A member of the Legislative Assembly (MLA) in the state of Tamil Nadu is accused of being of unsound mind, which is a disqualification under Article 191(1) of the Constitution of India.

**Process:**

**Question Arises:** A petition is submitted by a group of citizens to the Speaker of the Legislative Assembly, claiming that the MLA is of unsound mind.

**Referral to Governor:** The Speaker refers the question to the Governor of Tamil Nadu.

**Governor's Action:** The Governor seeks the opinion of the Election Commission of India regarding the mental fitness of the MLA.

**Election Commission's Opinion:** The Election Commission arranges for a medical examination and gathers evidence, then provides its opinion to the Governor.

**Governor's Decision:** Based on the Election Commission's opinion, the Governor decides that the MLA is disqualified due to being of unsound mind.

**Finality:** The Governor's decision is final and conclusive.

**Example 4:**

Scenario: A member of the Legislative Assembly (MLA) in the state of West Bengal is accused of being an undischarged insolvent, which is a disqualification under Article 191(1) of the Constitution of India.

Process:

Question Arises: A financial institution files a complaint with the Speaker of the Legislative Assembly, alleging that the MLA is an undischarged insolvent.

Referral to Governor: The Speaker refers the question to the Governor of West Bengal.

Governor's Action: The Governor seeks the opinion of the Election Commission of India on the matter.

Election Commission's Opinion: The Election Commission reviews the financial records and legal status of the MLA and provides its opinion to the Governor.

Governor's Decision: Acting on the Election Commission's opinion, the Governor decides that the MLA is disqualified due to being an undischarged insolvent.

Finality: The Governor's decision is final and binding.

**Article 193: Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.**

If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

**Simplified act**

If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before meeting the requirements of article 188, or if they know they are not qualified or are disqualified from being a member, or if they are prohibited by any law made by Parliament or the State Legislature, they will have to pay a penalty.



The penalty is five hundred rupees for each day they sit or vote without meeting the requirements.

This penalty will be collected as a debt owed to the State.

Explanation using Example

Example 1:

Rajesh is elected as a member of the Legislative Assembly in the state of Maharashtra. However, before taking the oath as required under Article 188 of the Constitution of India, he attends a session of the Assembly and participates in voting on a bill. Since Rajesh has not yet taken the oath, he is in violation of Article 193. As a result, he is liable to pay a penalty of five hundred rupees for each day he sits or votes in the Assembly without having taken the oath.

Example 2:

Priya is a member of the Legislative Council in the state of Karnataka. She is later found to be disqualified from holding her position due to a conflict of interest, as she holds a government contract that disqualifies her under the relevant state law. Despite knowing about her disqualification, Priya continues to attend sessions and vote on legislative matters. For each day she sits or votes while being disqualified, Priya is liable to pay a penalty of five hundred rupees, which will be recovered as a debt due to the State.

Example 3:

Vikram is elected to the Legislative Assembly of Tamil Nadu. However, he has not yet reached the minimum age required to be a member of the Assembly, making him unqualified. Despite this, Vikram attends the Assembly sessions and votes on various issues. Since Vikram knows he is not qualified, he is in violation of Article 193 and must pay a penalty of five hundred rupees for each day he sits or votes in the Assembly.

Example 4:

Anita is a member of the Legislative Assembly in the state of Gujarat. She has taken the oath under Article 188, but later, a law passed by the Parliament disqualifies individuals with certain criminal convictions from being members of the Assembly. Anita has a prior conviction that falls under this new law, making her disqualified. Despite knowing this, Anita continues to participate in the Assembly sessions and votes on legislative matters. For each day she does

so, Anita is liable to pay a penalty of five hundred rupees, which will be recovered as a debt due to the State.

**Article 194: Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.**

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) Act, 1978.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

**Simplified act**

(1) As long as they follow the rules and procedures set by the Constitution and the Legislature, members of the Legislature in every State have the right to speak freely in the Legislature.

(2) Members of the State Legislature cannot be taken to court for anything they say or any vote they cast in the Legislature or its committees. Also, no one can be taken to court for publishing reports, papers, votes, or proceedings if they are authorized by the Legislature.

(3) The powers, privileges, and protections of a State Legislature and its members and committees will be defined by the Legislature through laws. Until such laws are made, they will have the same powers, privileges, and

protections they had before the Forty-fourth Amendment of the Constitution in 1978.

(4) The rules in points (1), (2), and (3) also apply to people who have the right to speak and participate in the Legislature's proceedings, even if they are not official members of the Legislature.

#### Explanation using Example

##### Example 1:

Scenario: A member of the State Legislature, Mr. Sharma, makes a controversial statement during a legislative session, criticizing a government policy.

##### Application of Article 194:

Clause (1): Mr. Sharma has the freedom of speech in the Legislature, meaning he can express his views openly during the session.

Clause (2): Mr. Sharma cannot be taken to court for the statement he made during the legislative session. This protection ensures that legislators can speak freely without fear of legal repercussions.

Clause (3): If there are any additional powers or privileges that the Legislature has defined by law, those would also apply to Mr. Sharma. Until such laws are defined, the privileges that existed before the 44th Amendment Act, 1978, would apply.

Clause (4): If there are other individuals, such as experts or advisors, who have the right to speak in the Legislature, they would also enjoy the same protections as Mr. Sharma.

##### Example 2:

Scenario: A journalist publishes a report based on the official proceedings of a State Legislature committee meeting.

##### Application of Article 194:

Clause (1): The members of the committee have the freedom to discuss and debate issues during the meeting.

Clause (2): The journalist is protected from legal action for publishing the report, as it is based on the official proceedings authorized by the Legislature.

Similarly, the members of the committee are protected from legal action for their statements made during the meeting.

Clause (3): Any additional powers or privileges defined by the Legislature would apply to the committee members. Until such laws are defined, the privileges that existed before the 44th Amendment Act, 1978, would apply.

Clause (4): If there are other individuals, such as experts or advisors, who have the right to speak in the committee, they would also enjoy the same protections as the committee members.

Example 3:

Scenario: A member of the State Legislature, Ms. Patel, votes against a proposed bill during a legislative session.

Application of Article 194:

Clause (1): Ms. Patel has the freedom to express her opinion and vote as she sees fit during the legislative session.

Clause (2): Ms. Patel cannot be taken to court for her vote against the bill. This protection ensures that legislators can vote according to their conscience without fear of legal repercussions.

Clause (3): If there are any additional powers or privileges that the Legislature has defined by law, those would also apply to Ms. Patel. Until such laws are defined, the privileges that existed before the 44th Amendment Act, 1978, would apply.

Clause (4): If there are other individuals, such as experts or advisors, who have the right to participate in the legislative session, they would also enjoy the same protections as Ms. Patel.

### **Article 195: Salaries and allowances of members.**

Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined, by the Legislature of the State by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province.

## **Simplified act**

Members of the Legislative Assembly and the Legislative Council of a State will get salaries and allowances as decided by the State Legislature through laws. Until such laws are made, they will receive the same salaries and allowances that were given to members of the Legislative Assembly of the corresponding Province just before this Constitution started.

Explanation using Example

Example 1:

Ravi is a newly elected Member of the Legislative Assembly (MLA) in the state of Maharashtra. He is curious about his salary and allowances. According to Article 195 of the Constitution of India, Ravi's salary and allowances will be determined by the Maharashtra State Legislature through a law. Until such a law is enacted, Ravi will receive the same salary and allowances that were applicable to members of the Legislative Assembly of the corresponding Province before the Constitution commenced.

Example 2:

Anita is a Member of the Legislative Council (MLC) in the state of Karnataka. She notices that her salary and allowances have been revised recently. This change was made by the Karnataka State Legislature, which passed a new law determining the updated salaries and allowances for its members. This is in accordance with Article 195 of the Constitution of India, which allows the State Legislature to determine the salaries and allowances of its members from time to time.

## **LEGISLATIVE PROCEDURE**

### **Article 196: Provisions as to introduction and passing of Bills.**

(1) Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

### **Simplified act**

(1) Except for Money Bills and other financial Bills (as mentioned in articles 198 and 207), a Bill can start in either House of the State Legislature if the State has a Legislative Council.

(2) Except for the rules in articles 197 and 198, a Bill is not considered passed by the State Legislature (if it has a Legislative Council) unless both Houses agree to it, either without changes or with only those changes that both Houses agree on.

(3) If a Bill is waiting to be passed in the State Legislature, it will not be canceled just because the House or Houses are temporarily closed.

(4) If a Bill is waiting in the Legislative Council and has not been passed by the Legislative Assembly, it will not be canceled if the Assembly is dissolved.

(5) If a Bill is waiting in the Legislative Assembly or has been passed by the Assembly but is waiting in the Legislative Council, it will be canceled if the Assembly is dissolved.

Explanation using Example

Example 1:

Scenario: Introduction of a General Bill in the State Legislature

Context: The government of a state with a bicameral legislature (Legislative Assembly and Legislative Council) wants to introduce a new education reform bill.

Process:

The Education Reform Bill is introduced in the Legislative Assembly.

The Bill is debated and passed by the Legislative Assembly.

The Bill is then sent to the Legislative Council for consideration.

The Legislative Council reviews the Bill and suggests some amendments.

The Bill, with the suggested amendments, is sent back to the Legislative Assembly.

The Legislative Assembly agrees to the amendments, and the Bill is passed by both Houses.

Outcome: The Education Reform Bill is now ready to be sent to the Governor for assent, as it has been agreed to by both Houses of the State Legislature.

Example 2:

Scenario: Handling of a Bill during Prorogation and Dissolution

Context: A Health and Safety Bill is pending in the Legislative Council of a state with a bicameral legislature. The Legislative Assembly is dissolved for new elections.

Process:

The Health and Safety Bill is introduced in the Legislative Assembly and passed.

The Bill is then sent to the Legislative Council for consideration.

Before the Legislative Council can pass the Bill, the Legislative Assembly is dissolved for new elections.

According to Article 196(4), the Bill does not lapse and remains pending in the Legislative Council.

After the new Legislative Assembly is formed, the Bill can be taken up again by the Legislative Council.

Outcome: The Health and Safety Bill remains active and can be considered by the new Legislative Assembly and Legislative Council after the elections.

Example 3:

Scenario: Introduction and Passing of a Money Bill

Context: The state government wants to introduce a new taxation bill, which is classified as a Money Bill.

Process:

The Taxation Bill is introduced in the Legislative Assembly, as Money Bills can only originate in the Legislative Assembly.

The Bill is debated and passed by the Legislative Assembly.

The Bill is then sent to the Legislative Council for its recommendations.

The Legislative Council can suggest amendments but cannot reject the Bill.

The Legislative Assembly may accept or reject the recommendations of the Legislative Council.

The Bill is considered passed by the Legislative Assembly, with or without the recommendations of the Legislative Council.

Outcome: The Taxation Bill is sent to the Governor for assent, as it has been passed by the Legislative Assembly, fulfilling the requirements for a Money Bill.

**Article 197: Restriction on powers of Legislative Council as to Bills other than Money Bills.**

Legislative Process for Bills in States with Legislative Councils

(1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council -

(a) the Bill is rejected by the Council; or

(b) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.



(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council -

- (a) the Bill is rejected by the Council; or
- (b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or
- (c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.

### **Simplified act**

#### How Bills are Passed in States with Two Houses

(1) When a Bill is passed by the Legislative Assembly (the lower house) of a State that also has a Legislative Council (the upper house) and sent to the Legislative Council:

- (a) If the Council rejects the Bill; or
- (b) If more than three months go by without the Council passing the Bill; or
- (c) If the Council passes the Bill with changes that the Assembly does not agree with;

The Assembly can pass the Bill again, either in the same session or a later one, with or without the changes suggested by the Council, and then send it back to the Council.

(2) When the Bill is passed again by the Assembly and sent to the Council:

- (a) If the Council rejects the Bill again; or
- (b) If more than one month goes by without the Council passing the Bill; or
- (c) If the Council passes the Bill with changes that the Assembly does not agree with;

The Bill will be considered as passed by both houses in the form it was passed by the Assembly the second time, including any changes suggested by the Council that the Assembly agreed to.

(3) This process does not apply to Money Bills.

Explanation using Example

Example 1:

Scenario: The Legislative Assembly of Maharashtra, which has a Legislative Council, passes a Bill aimed at improving public transportation.

First Transmission:

The Bill is sent to the Legislative Council.

The Council rejects the Bill.

Legislative Assembly's Response:

The Legislative Assembly reviews the rejection and decides to pass the Bill again in the next session without any changes.

The Bill is transmitted back to the Legislative Council.

Second Transmission:

The Council again rejects the Bill.

Outcome:

According to Article 197, the Bill is deemed to have been passed by both Houses in the form it was passed by the Legislative Assembly the second time.

Example 2:

Scenario: The Legislative Assembly of Karnataka, which has a Legislative Council, passes a Bill to regulate online education platforms.

First Transmission:

The Bill is sent to the Legislative Council.

The Council suggests amendments to the Bill.

Legislative Assembly's Response:

The Legislative Assembly does not agree with the amendments and decides to pass the Bill again in the next session without incorporating the Council's suggestions.

The Bill is transmitted back to the Legislative Council.

Second Transmission:

The Council does not take any action on the Bill for more than one month.

Outcome:

According to Article 197, the Bill is deemed to have been passed by both Houses in the form it was passed by the Legislative Assembly the second time, without the Council's suggested amendments.

Example 3:

Scenario: The Legislative Assembly of Bihar, which has a Legislative Council, passes a Bill to enhance healthcare facilities in rural areas.

First Transmission:

The Bill is sent to the Legislative Council.

The Council does not take any action on the Bill for more than three months.

Legislative Assembly's Response:

The Legislative Assembly decides to pass the Bill again in the next session without any changes.

The Bill is transmitted back to the Legislative Council.

Second Transmission:

The Council passes the Bill with new amendments.

Outcome:

The Legislative Assembly reviews the new amendments but does not agree with them.

According to Article 197, the Bill is deemed to have been passed by both Houses in the form it was passed by the Legislative Assembly the second time, without the Council's new amendments.

#### Example 4:

Scenario: The Legislative Assembly of Andhra Pradesh, which has a Legislative Council, passes a Bill to introduce new environmental regulations.

#### First Transmission:

The Bill is sent to the Legislative Council.

The Council passes the Bill with amendments.

#### Legislative Assembly's Response:

The Legislative Assembly agrees to some of the amendments but not all.

The Assembly passes the Bill again in the next session with only the agreed amendments.

The Bill is transmitted back to the Legislative Council.

#### Second Transmission:

The Council does not take any action on the Bill for more than one month.

#### Outcome:

According to Article 197, the Bill is deemed to have been passed by both Houses in the form it was passed by the Legislative Assembly the second time, with only the agreed amendments.

### **Article 198: Special procedure in respect of Money Bills.**

#### Money Bill Procedures

(1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by

both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

### **Simplified act**

#### Money Bill Procedures

(1) A Money Bill cannot be introduced in a Legislative Council.

(2) After a Money Bill is passed by the Legislative Assembly in a state that has a Legislative Council, it must be sent to the Legislative Council for their suggestions. The Legislative Council has 14 days to return the Bill with their suggestions. The Legislative Assembly can then choose to accept or reject any or all of these suggestions.

(3) If the Legislative Assembly accepts any of the suggestions from the Legislative Council, the Money Bill is considered to have been passed by both Houses with those changes.

(4) If the Legislative Assembly does not accept any of the suggestions from the Legislative Council, the Money Bill is considered to have been passed by both Houses in the original form as passed by the Legislative Assembly, without any changes.

(5) If the Legislative Council does not return the Money Bill to the Legislative Assembly within the 14-day period, the Bill is considered to have been passed by both Houses in the original form as passed by the Legislative Assembly.

#### Explanation using Example

Example 1:

The state of Maharashtra is planning its annual budget, which includes various financial proposals such as new taxes, allocation of funds for infrastructure projects, and subsidies for farmers. The Finance Minister introduces the Money Bill in the Maharashtra Legislative Assembly.

The bill is debated and passed by the Legislative Assembly.

The bill is then sent to the Maharashtra Legislative Council for its recommendations.

The Legislative Council reviews the bill and suggests some changes, such as increasing the subsidy for farmers.

The Legislative Council returns the bill to the Legislative Assembly within 14 days with its recommendations.

The Legislative Assembly considers the recommendations and decides to accept the suggestion to increase the subsidy for farmers but rejects other recommendations.

The bill, with the accepted amendments, is deemed to have been passed by both Houses.

Example 2:

The state of Karnataka is introducing a new Money Bill to fund a large-scale public health initiative. The bill includes provisions for new taxes on luxury goods to raise the necessary funds.

The bill is introduced and passed by the Karnataka Legislative Assembly.

The bill is then sent to the Karnataka Legislative Council for its recommendations.

The Legislative Council reviews the bill but does not return it to the Legislative Assembly within the 14-day period.

Since the Legislative Council did not return the bill within the specified time, the bill is deemed to have been passed by both Houses in the form it was originally passed by the Legislative Assembly.

The new taxes on luxury goods are implemented, and the funds are allocated to the public health initiative as planned.

**Article 199: Definition of "Money Bills".**

## Money Bill Provisions

(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;
- (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or
- (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

## **Simplified act**

## Money Bill Provisions

(1) For this section, a Bill is considered a Money Bill if it only includes provisions about any of the following:

- (a) creating, removing, changing, or managing any tax;
- (b) managing the borrowing of money or giving guarantees by the State, or changing laws about the State's financial responsibilities;
- (c) handling the State's main funds (Consolidated Fund or Contingency Fund), including putting money in or taking money out;
- (d) using money from the State's main fund;
- (e) declaring certain expenses to be paid from the State's main fund, or increasing such expenses;
- (f) receiving money for the State's main fund or public account, or managing this money;
- (g) any other matter related to the above points (a) to (f).

(2) A Bill is not considered a Money Bill just because it includes fines, fees for licenses, or fees for services, or because it involves local taxes managed by local authorities.

(3) If there is any doubt whether a Bill in a State with a Legislative Council is a Money Bill, the Speaker of the Legislative Assembly of that State will make the final decision.

(4) Every Money Bill must have a certificate signed by the Speaker of the Legislative Assembly confirming it is a Money Bill when it is sent to the Legislative Council (under article 198) and when it is presented to the Governor for approval (under article 200).

Explanation using Example

Example 1:

The State Government of Maharashtra decides to introduce a new tax on luxury cars to generate additional revenue. The bill proposes the imposition of this new tax, detailing the tax rate and the method of collection. Since the bill deals with the imposition of a tax, it qualifies as a Money Bill under Article 199(1)(a) of the Constitution of India. The Speaker of the Maharashtra Legislative Assembly certifies it as a Money Bill, and it is then transmitted to



the Legislative Council and presented to the Governor for assent with the necessary certification.

Example 2:

The State Government of Karnataka needs to borrow a significant amount of money to fund a large infrastructure project. A bill is introduced in the Karnataka Legislative Assembly to regulate the borrowing of this money and to provide guarantees for the loans. This bill falls under the category of a Money Bill as per Article 199(1)(b) because it deals with the regulation of borrowing money and giving guarantees by the State. The Speaker of the Karnataka Legislative Assembly certifies the bill as a Money Bill, and it is processed accordingly.

Example 3:

The State Government of Tamil Nadu decides to withdraw a substantial amount of money from the Consolidated Fund of the State to fund emergency relief efforts after a natural disaster. A bill is introduced to authorize this withdrawal. Since the bill deals with the withdrawal of money from the Consolidated Fund, it is considered a Money Bill under Article 199(1)(c). The Speaker of the Tamil Nadu Legislative Assembly certifies it as a Money Bill, and it is then sent to the Legislative Council and the Governor for assent with the appropriate certification.

Example 4:

The State Government of West Bengal introduces a bill to amend the existing law regarding the financial obligations of the state, specifically to alter the terms of repayment of a significant loan. This bill is classified as a Money Bill under Article 199(1)(b) because it deals with the amendment of the law with respect to financial obligations undertaken by the State. The Speaker of the West Bengal Legislative Assembly certifies the bill as a Money Bill, and it follows the legislative process with the necessary certification.

Example 5:

The State Government of Gujarat introduces a bill to declare a new expenditure for a major public health initiative as expenditure charged on the Consolidated Fund of the State. This bill is considered a Money Bill under Article 199(1)(e) because it declares new expenditure to be charged on the Consolidated Fund. The Speaker of the Gujarat Legislative Assembly certifies the bill as a Money Bill, and it is processed accordingly with the required certification.

## **Article 200: Assent to Bills.**

When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

### **Simplified act**

When a Bill (a proposed law) is approved by the Legislative Assembly of a State, or by both Houses if the State has a Legislative Council, it is sent to the Governor.

The Governor then has three options: a. Approve the Bill (give assent). b. Reject the Bill (withhold assent). c. Send the Bill to the President for consideration.

If the Bill is not about money (not a Money Bill), the Governor can send it back to the House or Houses with suggestions for changes. The House or Houses must then reconsider the Bill and can make changes or leave it as it is. If the Bill is passed again and sent back to the Governor, the Governor must approve it.

If the Governor believes that the Bill would reduce the powers of the High Court in a way that could harm its role, the Governor must send the Bill to the President for consideration and cannot approve it on their own.

## Explanation using Example

### Example 1:

Scenario: A new education reform bill has been passed by the Legislative Assembly of the State of Maharashtra. The bill aims to introduce a new curriculum in state-run schools.

#### Application:

The bill is passed by the Legislative Assembly of Maharashtra.

The bill is then presented to the Governor of Maharashtra.

The Governor has three options:

Assent: The Governor agrees to the bill, and it becomes law.

Withhold Assent: The Governor does not agree to the bill, and it does not become law.

Reserve for President's Consideration: The Governor believes the bill may affect the powers of the High Court and reserves it for the President's consideration.

#### Outcome:

If the Governor assents, the new curriculum is implemented in state-run schools.

If the Governor withholds assent, the bill is rejected.

If the Governor reserves the bill for the President, the President will review and decide whether to approve or reject the bill.

### Example 2:

Scenario: A bill proposing the establishment of a new industrial zone in Tamil Nadu has been passed by both the Legislative Assembly and the Legislative Council of the State.

#### Application:

The bill is passed by both Houses of the Legislature of Tamil Nadu.

The bill is then presented to the Governor of Tamil Nadu.

The Governor has three options:

Assent: The Governor agrees to the bill, and it becomes law.

Withhold Assent: The Governor does not agree to the bill, and it does not become law.

Return for Reconsideration: The Governor returns the bill with suggestions for amendments.

Outcome:

If the Governor assents, the new industrial zone is established.

If the Governor withholds assent, the bill is rejected.

If the Governor returns the bill with suggestions, the Legislature can reconsider and amend the bill. If the bill is passed again (with or without amendments) and presented to the Governor, the Governor must assent to it.

Example 3:

Scenario: A bill concerning the reorganization of the judicial districts in Karnataka is passed by the Legislative Assembly.

Application:

The bill is passed by the Legislative Assembly of Karnataka.

The bill is then presented to the Governor of Karnataka.

The Governor believes that the bill might affect the powers of the High Court and decides to reserve it for the President's consideration.

Outcome:

The President will review the bill and decide whether to approve or reject it.

If the President approves, the reorganization of the judicial districts will take place.

If the President rejects, the bill does not become law.

### **Article 201: Bills reserved for consideration.**

When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

### **Simplified act**

When a Governor sends a Bill to the President for approval, the President has two choices: he can either approve the Bill or reject it.

However, if the Bill is not about money matters, the President can ask the Governor to send the Bill back to the State Legislature (the group of people who make laws in the state) with some suggestions. The State Legislature then has six months to think about these suggestions and make changes if they want. After that, they send the Bill back to the President. The President will then decide again whether to approve or reject the Bill.

Explanation using Example

Example 1:

Scenario: A State Legislature in India passes a Bill aimed at regulating the sale and distribution of alcohol within the state. The Bill is not a Money Bill.

Process:

The Bill is passed by both Houses of the State Legislature.

The Governor of the state, however, has reservations about the Bill and decides to reserve it for the consideration of the President of India.

The President reviews the Bill and decides not to assent to it immediately. Instead, the President directs the Governor to return the Bill to the State Legislature with a message suggesting certain amendments.

The State Legislature receives the Bill along with the President's message and reconsiders it within six months.

After reconsideration, the State Legislature passes the Bill again, either with or without the suggested amendments.

The Bill is then presented again to the President for his consideration.

The President now has the option to either assent to the Bill or withhold assent.

Example 2:

Scenario: A State Legislature in India passes a Bill to introduce a new educational policy that mandates compulsory education for children up to the age of 14. The Bill is not a Money Bill.

Process:

The Bill is passed by both Houses of the State Legislature.

The Governor of the state, considering the potential national implications of the Bill, reserves it for the consideration of the President of India.

The President reviews the Bill and decides to withhold assent, citing concerns about its alignment with national education policies.

The President directs the Governor to return the Bill to the State Legislature with a message suggesting a review of certain provisions to ensure consistency with national policies.

The State Legislature receives the Bill along with the President's message and reconsiders it within six months.

After reconsideration, the State Legislature passes the Bill again, either with or without the suggested amendments.

The Bill is then presented again to the President for his consideration.

The President now has the option to either assent to the Bill or withhold assent.

Example 3:

Scenario: A State Legislature in India passes a Bill to implement a new environmental regulation that restricts industrial pollution. The Bill is not a Money Bill.

Process:

The Bill is passed by both Houses of the State Legislature.

The Governor of the state, recognizing the potential impact on interstate commerce and national environmental standards, reserves it for the consideration of the President of India.

The President reviews the Bill and decides to withhold assent, suggesting that the Bill needs to be aligned with existing national environmental laws.

The President directs the Governor to return the Bill to the State Legislature with a message recommending specific changes.

The State Legislature receives the Bill along with the President's message and reconsiders it within six months.

After reconsideration, the State Legislature passes the Bill again, either with or without the suggested amendments.

The Bill is then presented again to the President for his consideration.

The President now has the option to either assent to the Bill or withhold assent.

### **PROCEDURE IN FINANCIAL MATTERS**

#### **Article 202: Annual financial statement.**

##### Financial Provisions

(1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately -

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State -

- (a) the emoluments and allowances of the Governor and other expenditure relating to his office;
- (b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;
- (c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
- (d) expenditure in respect of the salaries and allowances of Judges of any High Court;
- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (f) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

### **Simplified act**

#### Financial Provisions

(1) Every year, the Governor must present a report to the State Legislature (the House or Houses) that shows the expected income and spending of the State for that year. This report is called the "annual financial statement."

(2) The spending estimates in the annual financial statement must separately show:

(a) the amounts needed for expenses that the Constitution says must be paid from the State's main account (the Consolidated Fund); and

(b) the amounts needed for other expenses that are planned to be paid from the State's main account (the Consolidated Fund);

and must clearly differentiate between regular expenses and other types of expenses.

(3) The following expenses must be paid from the State's main account (the Consolidated Fund):

(a) the salary and allowances of the Governor and other costs related to his office;



- (b) the salaries and allowances of the Speaker and Deputy Speaker of the Legislative Assembly, and if the State has a Legislative Council, also the Chairman and Deputy Chairman of the Legislative Council;
- (c) debt payments that the State owes, including interest, sinking fund charges, and repayment charges, as well as other costs related to borrowing money and paying off debt;
- (d) the salaries and allowances of Judges of any High Court;
- (e) any amounts needed to pay any court judgment, decree, or award from an arbitration tribunal;
- (f) any other expenses that the Constitution or State Legislature declares must be paid from the State's main account.

#### Explanation using Example

##### Example 1:

Scenario: The State of Maharashtra is preparing its budget for the upcoming financial year.

##### Application of Article 202:

Governor's Role: The Governor of Maharashtra ensures that a detailed statement of the estimated receipts (income) and expenditure (expenses) for the upcoming financial year is prepared. This document is known as the "annual financial statement."

Presentation to Legislature: The Governor presents this annual financial statement to the Maharashtra Legislative Assembly and, if applicable, the Legislative Council.

##### Expenditure Breakdown:

Charged Expenditure: The statement separately lists the amounts required for expenditures that are automatically charged to the Consolidated Fund of Maharashtra. This includes:

Salaries and allowances of the Governor.

Salaries and allowances of the Speaker and Deputy Speaker of the Legislative Assembly.

Debt charges, including interest and repayment of loans.

Salaries and allowances of High Court judges.

Any sums required to satisfy court judgments or arbitral awards.

Other Expenditure: The statement also lists other proposed expenditures from the Consolidated Fund, such as funding for public projects, education, healthcare, and infrastructure.

Revenue vs. Other Expenditure: The statement distinguishes between revenue expenditure (day-to-day operational costs) and other types of expenditure (capital investments, etc.).

Example 2:

Scenario: The State of Karnataka is facing a legal judgment requiring it to pay a significant sum to a contractor due to a breach of contract.

Application of Article 202:

Governor's Role: The Governor of Karnataka includes the required payment to the contractor in the annual financial statement as part of the expenditure charged on the Consolidated Fund of the State.

Presentation to Legislature: This financial statement is then presented to the Karnataka Legislative Assembly and, if applicable, the Legislative Council.

Expenditure Breakdown:

Charged Expenditure: The statement lists the payment to the contractor under the category of sums required to satisfy any judgment, decree, or award of any court or arbitral tribunal.

Other Expenditure: The statement also includes other proposed expenditures, such as salaries for government employees, funding for state-run schools, and infrastructure projects.

Revenue vs. Other Expenditure: The statement clearly distinguishes between revenue expenditure (e.g., salaries, operational costs) and other expenditures (e.g., capital projects, legal judgments).

Example 3:

Scenario: The State of Tamil Nadu is planning to raise funds through a new loan to finance a large infrastructure project.

Application of Article 202:

Governor's Role: The Governor of Tamil Nadu ensures that the details of the new loan, including the debt charges (interest, sinking fund charges, and redemption charges), are included in the annual financial statement.

Presentation to Legislature: The Governor presents this financial statement to the Tamil Nadu Legislative Assembly and, if applicable, the Legislative Council.

Expenditure Breakdown:

Charged Expenditure: The statement lists the debt charges related to the new loan under the category of debt charges for which the State is liable.

Other Expenditure: The statement also includes other proposed expenditures, such as funding for healthcare, education, and public safety.

Revenue vs. Other Expenditure: The statement distinguishes between revenue expenditure (e.g., operational costs) and other expenditures (e.g., infrastructure projects, debt charges).

Example 4:

Scenario: The State of West Bengal needs to allocate funds for the salaries and allowances of the newly appointed judges of the High Court.

Application of Article 202:

Governor's Role: The Governor of West Bengal includes the salaries and allowances of the new High Court judges in the annual financial statement as part of the expenditure charged on the Consolidated Fund of the State.

Presentation to Legislature: This financial statement is then presented to the West Bengal Legislative Assembly and, if applicable, the Legislative Council.

Expenditure Breakdown:

Charged Expenditure: The statement lists the salaries and allowances of the High Court judges under the category of expenditure in respect of the salaries and allowances of Judges of any High Court.

Other Expenditure: The statement also includes other proposed expenditures, such as funding for public welfare programs, infrastructure development, and administrative costs.

Revenue vs. Other Expenditure: The statement distinguishes between revenue expenditure (e.g., salaries, operational costs) and other expenditures (e.g., capital projects, judicial salaries).

### **Article 203: Procedure in Legislature with respect to estimates.**

#### Expenditure Estimates

(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

### **Simplified act**

#### Expenditure Estimates

(1) The part of the budget that deals with expenses directly taken from the State's main fund does not need to be voted on by the Legislative Assembly. However, this does not mean that the Legislative Assembly cannot discuss these expenses.

(2) The part of the budget that deals with other expenses must be presented to the Legislative Assembly as requests for funding. The Legislative Assembly can agree to these requests, reject them, or agree to them but with a lower amount of money than requested.

(3) Any request for funding must be recommended by the Governor before it can be made.

#### Explanation using Example

### Example 1:

Scenario: The State Government of Maharashtra is preparing its annual budget.

Explanation:

Expenditure Charged Upon the Consolidated Fund:

The budget includes salaries of judges of the High Court, interest payments on state debts, and pensions of retired government employees.

These expenditures are charged upon the Consolidated Fund of Maharashtra.

According to Article 203(1), these expenditures are not submitted to the vote of the Legislative Assembly. However, members of the Legislative Assembly can discuss these expenditures.

Other Expenditures:

The budget also includes funds for new infrastructure projects, education programs, and healthcare services.

These expenditures are not charged upon the Consolidated Fund and are submitted to the Legislative Assembly in the form of demands for grants.

The Legislative Assembly of Maharashtra has the power to approve, reject, or reduce the amount of these demands as per Article 203(2).

Governor's Recommendation:

Before any demand for a grant is made, it must be recommended by the Governor of Maharashtra as per Article 203(3).

For instance, if the Education Department wants to request additional funds for building new schools, this demand must first be recommended by the Governor before being presented to the Legislative Assembly.

### Example 2:

Scenario: The State Government of Karnataka is discussing its mid-year financial review.

Explanation:

Expenditure Charged Upon the Consolidated Fund:

The review includes expenditures such as the maintenance of the Governor's residence, salaries of the State Public Service Commission members, and administrative expenses of the High Court.

These expenditures are charged upon the Consolidated Fund of Karnataka.

As per Article 203(1), these expenditures are not put to vote in the Legislative Assembly but can be discussed by the members.

Other Expenditures:

The review also includes additional funding requests for road repairs, public health initiatives, and agricultural subsidies.

These expenditures are submitted to the Legislative Assembly in the form of demands for grants.

The Legislative Assembly of Karnataka can approve, reject, or reduce these demands as per Article 203(2).

Governor's Recommendation:

Any new demand for grants, such as additional funds for drought relief in certain districts, must be recommended by the Governor of Karnataka before being presented to the Legislative Assembly, in accordance with Article 203(3).

This ensures that the Governor has oversight over new financial requests before they are debated and voted on by the Legislative Assembly.

#### **Article 204: Appropriation Bills.**

(1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet -

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the

amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

### **Simplified act**

(1) After the Assembly has approved the grants under article 203, a Bill must be introduced to allocate money from the State's Consolidated Fund to cover:

(a) the grants approved by the Assembly; and

(b) the expenses charged to the State's Consolidated Fund, but not more than the amount previously presented to the House or Houses.

(2) No changes can be suggested to this Bill in the House or either House of the State Legislature that would change the amount or purpose of any grant approved, or change the amount of any expenses charged to the State's Consolidated Fund. The decision of the person in charge about whether a change is allowed is final.

(3) According to articles 205 and 206, no money can be taken out of the State's Consolidated Fund unless it is approved by a law passed according to the rules in this article.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra has just concluded its budget session. The Legislative Assembly has approved various grants for different departments such as education, healthcare, and infrastructure under Article 203.

Application of Article 204:

Introduction of Appropriation Bill: Following the approval of these grants, the Finance Minister of Maharashtra introduces an Appropriation Bill in the Assembly. This Bill outlines the total amount of money required from the Consolidated Fund of the State to cover the approved grants and any other expenditures.

**No Amendments Allowed:** During the discussion of this Appropriation Bill, a member of the Assembly proposes an amendment to increase the grant for healthcare. However, the Speaker of the Assembly rules this amendment inadmissible, citing Article 204(2), which prohibits any changes to the amounts or purposes of the grants already approved.

**Withdrawal of Funds:** Once the Appropriation Bill is passed by the Assembly, it becomes law. Only then can the funds be legally withdrawn from the Consolidated Fund of Maharashtra to meet the approved expenditures.

#### Example 2:

**Scenario:** The State of Karnataka is facing a natural disaster, and the Legislative Assembly has quickly approved emergency grants for disaster relief under Article 203.

#### Application of Article 204:

**Introduction of Appropriation Bill:** The Chief Minister of Karnataka introduces an Appropriation Bill to allocate funds from the Consolidated Fund of the State to cover the emergency grants for disaster relief.

**No Amendments Allowed:** During the legislative process, a member of the Legislative Council suggests reallocating some of the disaster relief funds to infrastructure repair. The presiding officer of the Council declares this amendment inadmissible under Article 204(2), as it would alter the destination of the grant.

**Withdrawal of Funds:** After the Appropriation Bill is passed by both Houses of the Legislature, it becomes law. The State Government can now legally withdraw the necessary funds from the Consolidated Fund of Karnataka to provide disaster relief.

#### Example 3:

**Scenario:** The State of Tamil Nadu has approved its annual budget, including grants for various social welfare schemes under Article 203.

#### Application of Article 204:

**Introduction of Appropriation Bill:** The Finance Minister of Tamil Nadu introduces an Appropriation Bill to allocate funds from the Consolidated Fund of the State to cover the approved social welfare grants.



**No Amendments Allowed:** During the legislative debate, a member proposes an amendment to reduce the grant for one of the social welfare schemes and increase the grant for another. The Speaker rules this amendment inadmissible under Article 204(2), as it would vary the amount and alter the destination of the grants.

**Withdrawal of Funds:** Once the Appropriation Bill is passed by the Assembly, it becomes law. The funds can then be legally withdrawn from the Consolidated Fund of Tamil Nadu to implement the social welfare schemes.

Example 4:

**Scenario:** The State of West Bengal has approved grants for a new infrastructure project under Article 203.

**Application of Article 204:**

**Introduction of Appropriation Bill:** The Finance Minister of West Bengal introduces an Appropriation Bill to allocate funds from the Consolidated Fund of the State to cover the infrastructure project grants.

**No Amendments Allowed:** During the legislative session, a member proposes an amendment to divert some of the infrastructure funds to education. The presiding officer declares this amendment inadmissible under Article 204(2), as it would alter the destination of the grant.

**Withdrawal of Funds:** After the Appropriation Bill is passed by the Assembly, it becomes law. The funds can then be legally withdrawn from the Consolidated Fund of West Bengal to finance the infrastructure project.

## **Article 205: Supplementary, additional or excess grants.**

Article Provisions

(1) The Governor shall -

(a) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

### **Simplified act**

#### Article Provisions

(1) The Governor must -

(a) if the money approved by law for a specific service for the current financial year is not enough, or if there is a need for extra money for a new service not planned in the annual budget, or

(b) if more money has been spent on a service than what was approved for that year,

present a new statement to the State Legislature showing the estimated extra amount needed or request approval for the extra spending.

(2) The rules in articles 202, 203, and 204 will apply to this new statement and extra spending request, just like they apply to the annual budget and its spending or any request for money and the law needed to approve spending from the State's main fund.

#### Explanation using Example

Example 1:

Scenario: The state of Maharashtra has allocated ₹500 crores for healthcare services in its annual budget for the financial year 2023-2024. However, due to

an unexpected outbreak of a new virus, the allocated funds are found to be insufficient to cover the additional medical expenses, including setting up new quarantine centers and purchasing medical supplies.

Application of Article 205:

The Governor of Maharashtra recognizes the insufficiency of the allocated ₹500 crores.

The Governor prepares a supplementary statement showing the estimated additional expenditure required, say ₹200 crores.

This supplementary statement is laid before the Maharashtra Legislative Assembly.

The Legislative Assembly reviews and approves the additional ₹200 crores.

The approved amount is then appropriated from the Consolidated Fund of the State to meet the additional healthcare expenses.

Example 2:

Scenario: The state of Karnataka has allocated ₹300 crores for infrastructure development in its annual budget for the financial year 2023-2024. During the year, the state government decides to launch a new metro rail project which was not included in the original budget, requiring an additional ₹150 crores.

Application of Article 205:

The Governor of Karnataka identifies the need for additional expenditure for the new metro rail project.

The Governor prepares a statement showing the estimated expenditure of ₹150 crores for the new project.

This statement is presented to the Karnataka Legislative Assembly.

The Legislative Assembly reviews and approves the additional ₹150 crores.

The approved amount is then appropriated from the Consolidated Fund of the State to fund the new metro rail project.

Example 3:

Scenario: The state of Tamil Nadu has allocated ₹400 crores for education services in its annual budget for the financial year 2023-2024. However, due to unforeseen circumstances, the state ends up spending ₹450 crores on education services, exceeding the allocated budget by ₹50 crores.

Application of Article 205:

The Governor of Tamil Nadu notes the excess expenditure of ₹50 crores.

The Governor prepares a statement showing the excess expenditure.

This statement is laid before the Tamil Nadu Legislative Assembly.

The Legislative Assembly reviews and approves the excess expenditure of ₹50 crores.

The approved amount is then appropriated from the Consolidated Fund of the State to cover the excess expenditure on education services.

**Article 206: Votes on account, votes of credit and exceptional grants.**

Legislative Assembly Powers

(1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power -

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203 for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that

clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

### **Simplified act**

#### Legislative Assembly Powers

(1) Despite what is mentioned earlier in this Chapter, the Legislative Assembly of a State has the power to:

- (a) give money in advance for estimated expenses for part of a financial year while waiting for the completion of the process described in article 203 for approving such money and passing the law as per article 204 for that expense;
- (b) provide money to meet an unexpected need when the demand is too large or unclear to be detailed in the usual annual financial statement;
- (c) give special money that is not part of the regular expenses for any financial year;

and the State Legislature can make laws to allow the withdrawal of money from the State's Consolidated Fund for the purposes for which these grants are made.

(2) The rules in articles 203 and 204 apply to the making of any grant under point (1) and to any law made under that point, just as they apply to making a grant for any expense mentioned in the annual financial statement and the law for authorizing the use of money from the State's Consolidated Fund to cover such expenses.

#### Explanation using Example

##### Example 1:

Scenario: A natural disaster, such as a severe flood, hits the state of Kerala in the middle of the financial year.

##### Application of Article 206:

The Kerala Legislative Assembly can use Article 206(1)(b) to make a grant for meeting the unexpected demand on the state's resources due to the flood. Since the magnitude and indefinite character of the disaster cannot be detailed

in the annual financial statement, the Assembly can approve a grant to address the immediate needs such as rescue operations, temporary shelters, and medical aid.

The Assembly can authorize the withdrawal of money from the Consolidated Fund of the State to fund these emergency relief efforts.

#### Example 2:

Scenario: The state of Maharashtra plans to host an international sports event, which was not part of the original budget for the financial year.

#### Application of Article 206:

The Maharashtra Legislative Assembly can use Article 206(1)(c) to make an exceptional grant for the sports event, as it forms no part of the current service of any financial year.

This grant can cover expenses such as infrastructure development, security arrangements, and promotional activities.

The Assembly can pass a law to authorize the withdrawal of the necessary funds from the Consolidated Fund of the State to ensure the successful organization of the event.

#### Example 3:

Scenario: The state of Tamil Nadu is in the process of finalizing its annual budget, but there is an urgent need to fund a new public health initiative due to a sudden outbreak of a contagious disease.

#### Application of Article 206:

The Tamil Nadu Legislative Assembly can use Article 206(1)(a) to make a grant in advance for the estimated expenditure required for the public health initiative, pending the completion of the budget approval process as prescribed in Article 203.

This advance grant can be used to procure medical supplies, set up quarantine centers, and launch public awareness campaigns.

The Assembly can authorize the withdrawal of the necessary funds from the Consolidated Fund of the State to address the health crisis immediately, even before the full budget is passed.

## **Article 207: Special provisions as to financial Bills.**

(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

### **Simplified act**

(1) A Bill or amendment that deals with any of the topics listed in sub-clauses (a) to (f) of clause (1) of article 199 can only be introduced or moved if the Governor recommends it. Also, such a Bill cannot be introduced in a Legislative Council:

However, if the amendment is about reducing or getting rid of any tax, no recommendation from the Governor is needed.

(2) A Bill or amendment is not considered to deal with the topics mentioned above just because it includes fines, penalties, fees for licenses, or fees for services. It also doesn't count if it involves local taxes managed by local authorities.

(3) A Bill that would require spending money from the State's main fund (Consolidated Fund) cannot be passed by the State Legislature unless the Governor has recommended that the House consider the Bill.

Explanation using Example

### Example 1:

Scenario: Introduction of a new tax bill in the State Legislature.

Context: The State Government of Maharashtra wants to introduce a new bill that imposes a tax on luxury goods to generate additional revenue.

Application of Article 207:

Governor's Recommendation: The bill cannot be introduced in the Maharashtra Legislative Assembly without the recommendation of the Governor of Maharashtra.

Legislative Council: If Maharashtra had a Legislative Council, the bill could not be introduced there at all.

Expenditure from Consolidated Fund: If the bill involves expenditure from the Consolidated Fund of Maharashtra, it cannot be passed by the Legislative Assembly unless the Governor has recommended its consideration.

Outcome: The Finance Minister of Maharashtra seeks the Governor's recommendation before introducing the bill in the Legislative Assembly. Once the recommendation is obtained, the bill is introduced and debated. If it involves expenditure from the Consolidated Fund, the Governor's recommendation is also required for its passage.

### Example 2:

Scenario: Amendment to reduce an existing tax in the State Legislature.

Context: The State Government of Karnataka wants to amend an existing tax law to reduce the tax rate on small businesses.

Application of Article 207:

Governor's Recommendation Not Required: According to the proviso in Article 207(1), no recommendation from the Governor is required for moving an amendment that reduces or abolishes any tax.

Legislative Council: If Karnataka had a Legislative Council, the amendment could not be introduced there at all.

Expenditure from Consolidated Fund: If the amendment involves expenditure from the Consolidated Fund of Karnataka, it cannot be passed by the Legislative Assembly unless the Governor has recommended its consideration.



Outcome: The Finance Minister of Karnataka introduces the amendment in the Legislative Assembly without needing the Governor's recommendation. The amendment is debated and passed, reducing the tax rate on small businesses. If the amendment involves expenditure from the Consolidated Fund, the Governor's recommendation is sought for its passage.

## **PROCEDURE GENERALLY**

### **Article 208: Rules of procedure.**

#### Legislative Procedure and Conduct of Business

- (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.
- (2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.
- (3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

### **Simplified act**

#### Legislative Procedure and Conduct of Business

- (1) A State's Legislature can create rules to manage how it operates and conducts its business, as long as these rules follow the Constitution.
- (2) Until the State's Legislature creates its own rules, the existing rules and orders that were in place before this Constitution started will continue to apply. These can be changed or adjusted by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, depending on the situation.
- (3) In States that have both a Legislative Assembly and a Legislative Council, the Governor can make rules about how these two Houses communicate with each other, but only after talking with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council.

## Explanation using Example

### Example 1:

Scenario: The Legislative Assembly of Maharashtra wants to introduce a new rule regarding the time allocated for debates on bills.

#### Application of Article 208:

Clause (1): The Maharashtra Legislative Assembly can create a new rule specifying that each member is allowed a maximum of 10 minutes to speak during debates on bills. This rule is created to ensure efficient use of time and to allow more members to participate in the debate.

Clause (2): Until the new rule is officially adopted, the existing rules of procedure that were in place before the Constitution came into effect will continue to apply. These existing rules might allow for longer or shorter speaking times, but they will remain in force until the new rule is formally established.

Clause (3): If Maharashtra has a Legislative Council, the Governor, after consulting with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, can make rules regarding how the two houses communicate about the new debate time rule. This ensures that both houses are in agreement and can coordinate effectively.

### Example 2:

Scenario: The Legislative Assembly of Tamil Nadu needs to modify its rules to allow for virtual sessions due to a public health emergency.

#### Application of Article 208:

Clause (1): The Tamil Nadu Legislative Assembly can draft and adopt new rules that permit members to participate in sessions virtually using video conferencing technology. This rule is created to ensure the legislative process continues smoothly despite the inability to meet in person.

Clause (2): Until the new virtual session rules are officially adopted, the existing rules of procedure that were in place before the Constitution came into effect will continue to apply. These existing rules might not have provisions for virtual sessions, but they will remain in force until the new rule is formally established.

Clause (3): If Tamil Nadu has a Legislative Council, the Governor, after consulting with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, can make rules regarding how the two houses will communicate and coordinate during virtual sessions. This ensures that both houses can effectively manage their legislative duties even in a virtual environment.

**Article 209: Regulation by law of procedure in the Legislature of the State in relation to financial business.**

The Legislature of a State may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and so far as any provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under clause (1) of article 208 or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

**Simplified act**

The State Legislature can create laws to ensure that financial matters are handled on time.

These laws can set the rules for how financial business is conducted in the State Legislature.

This includes any bills that involve spending money from the State's main fund.

If these new laws conflict with existing rules made by the State Legislature under Article 208, the new laws will take priority.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra needs to pass a budget for the upcoming financial year.

Application of Article 209: The Maharashtra State Legislature decides to introduce a new law to streamline the budget approval process. This law specifies that all financial bills, including the annual budget, must be

submitted to the Legislature by the Finance Minister by the 1st of February each year. The law also outlines that the budget must be debated and approved by the 15th of March to ensure timely allocation of funds.

Outcome: Even if the existing rules of the Maharashtra Legislative Assembly under Article 208 allow for a different timeline, the new law made under Article 209 will take precedence. This ensures that the financial business is completed in a timely manner, preventing any delays in the allocation of funds for state projects and services.

#### Example 2:

Scenario: The State of Karnataka wants to introduce a new financial bill to allocate funds for a major infrastructure project.

Application of Article 209: The Karnataka State Legislature enacts a law that mandates any financial bill related to infrastructure projects must be reviewed by a special committee before being presented to the full Legislature. This law also stipulates that the committee must complete its review within 30 days of the bill's introduction.

Outcome: If the existing rules of the Karnataka Legislative Assembly under Article 208 do not require such a committee review, the new law under Article 209 will override those rules. This ensures that financial bills related to infrastructure projects are thoroughly vetted, promoting transparency and accountability in the use of public funds.

#### Example 3:

Scenario: The State of Tamil Nadu faces a situation where the existing rules of the Legislative Assembly are causing delays in the passage of financial bills.

Application of Article 209: The Tamil Nadu State Legislature passes a law that simplifies the procedure for passing financial bills. This law includes provisions for expedited debates and voting procedures, ensuring that financial bills are passed within a specified timeframe.

Outcome: Even if the existing rules under Article 208 allow for longer debate periods, the new law under Article 209 will take precedence. This ensures that financial bills are passed promptly, preventing any disruptions in the state's financial operations.

#### Example 4:

Scenario: The State of West Bengal wants to ensure that all financial matters are handled efficiently during legislative sessions.

Application of Article 209: The West Bengal State Legislature enacts a law that requires all financial matters to be prioritized during legislative sessions. This law mandates that financial bills and appropriations must be addressed before any other legislative business.

Outcome: If the existing rules under Article 208 allow for other legislative matters to be addressed first, the new law under Article 209 will override those rules. This ensures that financial matters are given priority, promoting efficient management of the state's finances.

### **Article 210: Language to be used in the Legislature.**

(1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother-tongue.

(2) Unless the Legislature of the State by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom:

Provided that in relation to the Legislatures of the States of Himachal Pradesh, Manipur, Meghalaya and Tripura this clause shall have effect as if for the words "fifteen years" occurring therein, the words "twenty-five years" were substituted:

Provided further that in relation to the Legislatures of the States of Arunachal Pradesh, Goa and Mizoram, this clause shall have effect as if for the words "fifteen years" occurring therein, the words "forty years" were substituted.

### **Simplified act**

Article - Language of Business in the Legislature

(1) Despite what is mentioned in Part XVII, but following the rules of article 348, the business in a State Legislature can be conducted in the official language(s) of the State, or in Hindi, or in English:

However, the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, or someone acting in their place, can allow any member who cannot express themselves well in these languages to speak in their mother-tongue.

(2) Unless the State Legislature decides otherwise by law, this rule will change fifteen years after the Constitution starts, and the words "or in English" will be removed:

However, for the States of Himachal Pradesh, Manipur, Meghalaya, and Tripura, this change will happen twenty-five years after the Constitution starts:

Additionally, for the States of Arunachal Pradesh, Goa, and Mizoram, this change will happen forty years after the Constitution starts.

Explanation using Example

Example 1:

Scenario: A member of the Karnataka Legislative Assembly, Mr. Ramesh, is fluent in Kannada (the official language of Karnataka) but not in Hindi or English. During a legislative session, he wishes to present a bill.

Application of Article 210: Mr. Ramesh can conduct his business in Kannada, as it is the official language of Karnataka. If he were not fluent in Kannada, Hindi, or English, he could request permission from the Speaker to address the House in his mother-tongue, say, Tulu. The Speaker has the discretion to allow this under Article 210.

Example 2:

Scenario: A member of the Legislative Assembly in Goa, Ms. Priya, prefers to speak in English during sessions. However, it has been 40 years since the commencement of the Constitution.

Application of Article 210: Since Goa is one of the states where the clause extends the period to 40 years, Ms. Priya can still use English for legislative business. After 40 years, unless the state legislature provides otherwise, English would no longer be an option, and she would need to use the official language of the state or Hindi.

### Example 3:

Scenario: Mr. Singh, a member of the Himachal Pradesh Legislative Assembly, wishes to address the House in English. It has been 25 years since the commencement of the Constitution.

Application of Article 210: In Himachal Pradesh, the period is extended to 25 years. Since it has been exactly 25 years, Mr. Singh can still use English for his address. After this period, unless the state legislature decides otherwise, English would no longer be permissible, and he would need to use the official language of the state or Hindi.

### Example 4:

Scenario: A new member of the Legislative Assembly in Uttar Pradesh, Mr. Sharma, is not fluent in Hindi or English but speaks Bhojpuri fluently. He needs to present a motion in the House.

Application of Article 210: Mr. Sharma can request the Speaker's permission to address the House in Bhojpuri, his mother-tongue. The Speaker has the authority to allow this under Article 210, ensuring Mr. Sharma can adequately express himself.

### Example 5:

Scenario: The Legislative Assembly of Manipur is conducting a session, and a member, Ms. Devi, prefers to use English for her speech. It has been 20 years since the commencement of the Constitution.

Application of Article 210: In Manipur, the period is extended to 25 years. Since it has been 20 years, Ms. Devi can still use English for her speech. After 25 years, unless the state legislature provides otherwise, English would no longer be an option, and she would need to use the official language of the state or Hindi.

### **Article 211: Restriction on discussion in the Legislature.**

No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

### **Simplified act**

In the State Legislature, no one is allowed to talk about how a Judge of the Supreme Court or a High Court is doing their job.

Explanation using Example

Example 1:

During a legislative session in the State Assembly of Maharashtra, a member of the legislative assembly (MLA) attempts to bring up a discussion about a recent judgment delivered by a High Court judge. The MLA criticizes the judge's conduct and questions the integrity of the judgment. The Speaker of the Assembly immediately intervenes and stops the discussion, citing Article 211 of the Constitution of India, which prohibits any discussion in the Legislature regarding the conduct of a judge of the Supreme Court or a High Court in the discharge of their duties.

Example 2:

In the Karnataka State Legislature, a bill is being debated that concerns judicial reforms. One of the legislators tries to discuss the behavior of a specific Supreme Court judge in a recent high-profile case, alleging bias and misconduct. The Speaker of the House rules the discussion out of order, reminding the members that Article 211 of the Constitution of India restricts any discussion on the conduct of judges of the Supreme Court or High Courts while they are performing their official duties. The debate then shifts to general judicial reforms without mentioning any specific judge's conduct.

**Article 212: Courts not to inquire into proceedings of the Legislature.**

- (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.
- (2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

**Simplified act**

- (1) You cannot challenge the decisions or actions taken in the State Legislature just because you think there was a mistake in the way they followed the rules.



(2) Any officer or member of the State Legislature who has the authority to manage the procedures, conduct business, or keep order in the Legislature cannot be taken to court for how they use those powers.

Explanation using Example

Example 1:

Scenario: During a legislative session in the State Assembly of Maharashtra, a bill is passed with a majority vote. However, some members of the opposition claim that the Speaker did not follow the proper procedure during the voting process.

Application of Article 212: The opposition members decide to challenge the validity of the bill in the High Court, arguing that the Speaker's procedural irregularities invalidated the vote. According to Article 212(1), the court cannot inquire into the proceedings of the Legislature on the grounds of alleged procedural irregularities. Therefore, the High Court dismisses the case, stating that it has no jurisdiction to question the legislative process.

Example 2:

Scenario: In the Karnataka State Legislature, a heated debate leads to a chaotic situation. The Speaker of the House uses his powers to expel a member for disorderly conduct and suspend the session temporarily.

Application of Article 212: The expelled member feels that the Speaker's actions were unjust and decides to file a lawsuit against the Speaker in the High Court, claiming abuse of power. According to Article 212(2), the Speaker, who has the constitutional authority to regulate procedure and maintain order in the Legislature, is not subject to the jurisdiction of any court for actions taken in the exercise of those powers. Consequently, the court refuses to entertain the lawsuit, upholding the Speaker's authority to manage legislative proceedings.

### **Article 213: Power of Governor to promulgate Ordinances during recess of Legislature.**

Ordinance Promulgation by Governor

(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances

exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if -

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance -

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the Governor.

Explanation. - Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the

Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

(4) \* \* \* \*

### **Simplified act**

#### Ordinance Promulgation by Governor

(1) If the State Legislative Assembly (or both Houses of the Legislature, if there is a Legislative Council) is not in session, and the Governor believes that urgent action is needed, the Governor can issue an Ordinance (a temporary law):

Provided that the Governor cannot issue such an Ordinance without the President's instructions if -

(a) a similar Bill would have needed the President's approval before being introduced in the Legislature; or

(b) the Governor would have needed to send a similar Bill to the President for approval; or

(c) a similar State Legislature Act would have been invalid without the President's approval.

(2) An Ordinance issued by the Governor will have the same power as a law passed by the State Legislature and approved by the Governor, but every such Ordinance -

(a) must be presented to the State Legislative Assembly (or both Houses, if there is a Legislative Council) and will stop being effective six weeks after the Legislature reassembles, unless the Legislative Assembly disapproves it and the Legislative Council agrees (if there is one), in which case it stops being effective immediately; and

(b) can be withdrawn by the Governor at any time.

Explanation. - If the two Houses of the Legislature (in States with a Legislative Council) reassemble on different dates, the six-week period starts from the later date.

(3) If any part of an Ordinance would not be valid as a State Legislature Act approved by the Governor, that part is void:

Provided that, for the purposes of the Constitution's rules about State laws conflicting with Parliament laws or existing laws on matters in the Concurrent List, an Ordinance issued with the President's instructions is considered as a State Legislature Act approved by the President.

(4) \* \* \* \*

Explanation using Example

Example 1:

Scenario: A sudden outbreak of a contagious disease in the state of Maharashtra requires immediate quarantine measures.

Application of Article 213:

The Maharashtra Legislative Assembly is not in session.

The Governor of Maharashtra, recognizing the urgent need to control the outbreak, decides that immediate action is necessary.

The Governor promulgates an Ordinance to enforce quarantine measures, restrict movement, and allocate emergency funds for healthcare facilities.

This Ordinance is laid before the Legislative Assembly when it reconvenes.

The Ordinance will cease to operate six weeks after the Assembly reassembles unless it is approved by the Assembly within that period.

Example 2:

Scenario: A severe drought in the state of Rajasthan necessitates immediate relief measures for farmers.

Application of Article 213:

The Rajasthan Legislative Assembly is not in session.

The Governor of Rajasthan, understanding the critical situation, decides that immediate action is required to provide relief to the farmers.

The Governor promulgates an Ordinance to provide financial aid, waive off certain agricultural loans, and implement water conservation projects.

This Ordinance is presented before the Legislative Assembly when it reconvenes.

The Ordinance will cease to operate six weeks after the Assembly reassembles unless it is approved by the Assembly within that period.

#### Example 3:

Scenario: A sudden increase in cybercrimes in the state of Karnataka requires immediate legal measures to enhance cybersecurity.

#### Application of Article 213:

The Karnataka Legislative Assembly is not in session.

The Governor of Karnataka, recognizing the urgent need to address the rise in cybercrimes, decides that immediate action is necessary.

The Governor promulgates an Ordinance to strengthen cybersecurity laws, increase penalties for cybercrimes, and establish a special task force.

This Ordinance is laid before the Legislative Assembly when it reconvenes.

The Ordinance will cease to operate six weeks after the Assembly reassembles unless it is approved by the Assembly within that period.

#### Example 4:

Scenario: A natural disaster, such as a cyclone, hits the state of Odisha, requiring immediate relief and rehabilitation measures.

#### Application of Article 213:

The Odisha Legislative Assembly is not in session.

The Governor of Odisha, understanding the urgency of the situation, decides that immediate action is required to provide relief and rehabilitation to the affected people.

The Governor promulgates an Ordinance to allocate funds for disaster relief, set up temporary shelters, and provide essential supplies.

This Ordinance is presented before the Legislative Assembly when it reconvenes.

The Ordinance will cease to operate six weeks after the Assembly reassembles unless it is approved by the Assembly within that period.

#### **Article 214: High Courts for States.**

There shall be a High Court for each State.

(2) \* \* \* \*

(3) \* \* \* \*

#### **Article 215: High Courts to be courts of record.**

- Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

#### **Simplified act**

Every High Court is a court that keeps permanent records of its decisions and has the authority to punish anyone who disrespects or disobeys the court.

Explanation using Example

Example 1:

Scenario: A journalist publishes an article alleging corruption in the judiciary without any substantial evidence.

Application: The High Court, being a court of record, takes suo motu cognizance of the article and summons the journalist for contempt of court. The court has the power to punish the journalist for contempt, which could include fines or imprisonment, to maintain the dignity and authority of the judiciary.

Example 2:

Scenario: A lawyer repeatedly disrupts court proceedings by making baseless allegations against the judges and refusing to follow court decorum.

Application: The High Court, exercising its power as a court of record, initiates contempt proceedings against the lawyer. The court can impose penalties such as suspension of the lawyer's license to practice or other punitive measures to ensure that the court's authority is respected and upheld.

#### **Article 216: Constitution of High Courts.**

Every High Court

Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.

### **Simplified act**

Every High Court

Every High Court will have a Chief Justice and other Judges. The President will decide how many Judges are needed and appoint them as necessary.

Explanation using Example

Example 1:

Scenario: Appointment of Additional Judges in a High Court

Context: The High Court of Delhi is experiencing a significant backlog of cases, leading to delays in the delivery of justice. To address this issue, the President of India decides to appoint additional judges.

Application of Article 216:

The President, after consulting with the Chief Justice of the High Court of Delhi, appoints five additional judges to the High Court.

These appointments are made to ensure that the High Court can handle the increased workload and expedite the resolution of pending cases.

Outcome: The appointment of additional judges helps in reducing the backlog of cases, ensuring timely justice for the citizens.

Example 2:

Scenario: Appointment of a New Chief Justice

Context: The current Chief Justice of the High Court of Karnataka is set to retire next month. The President needs to appoint a new Chief Justice to ensure the smooth functioning of the High Court.

Application of Article 216:

The President, after consulting with the Chief Justice of India and the Governor of Karnataka, appoints Justice A as the new Chief Justice of the High Court of Karnataka.

Justice A takes over the responsibilities from the retiring Chief Justice and ensures the continuity of judicial administration in the High Court.

Outcome: The appointment of a new Chief Justice ensures that there is no disruption in the functioning of the High Court, maintaining the efficiency and effectiveness of the judicial system.

### **Article 217: Appointment and conditions of the office of a Judge of a High Court.**

#### Appointment and Conditions of the Office of a Judge of a High Court

(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal on the recommendation of the National Judicial Appointments Commission referred to in article 124A, and the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-two years:

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and:

(a) has for at least ten years held a judicial office in the territory of India; or

(b) has for at least ten years been an advocate of a High Court or of two or more such Courts in succession.

(c)

Explanation: For the purposes of this clause:

(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any



judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(aa) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate;

(b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.

### **Simplified act**

#### Appointment and Conditions of the Office of a Judge of a High Court

(1) Every Judge of a High Court is appointed by the President of India. This is done based on the recommendation of the National Judicial Appointments Commission mentioned in article 124A, and the Governor of the State. If it's not the Chief Justice being appointed, the Chief Justice of the High Court is also involved. Judges hold office as follows:

(a) A Judge can resign by writing a letter to the President.

(b) A Judge can be removed from office by the President in the same way a Supreme Court Judge can be removed, as described in article 124(4).

(c) A Judge's position becomes vacant if they are appointed to the Supreme Court by the President or transferred to another High Court in India by the President.

(2) To be eligible to become a High Court Judge, a person must be an Indian citizen and:

- (a) Have held a judicial position in India for at least ten years; or
- (b) Have been a lawyer in a High Court or multiple High Courts for at least ten years.
- (c)

Explanation: For this clause:

(a) When calculating the ten years of holding a judicial position, any time spent as a lawyer in a High Court or as a member of a tribunal or any legal post under the Union or State after holding a judicial position is included.

(aa) When calculating the ten years of being a lawyer in a High Court, any time spent holding a judicial position or as a member of a tribunal or any legal post under the Union or State after becoming a lawyer is included.

(b) When calculating the ten years of holding a judicial position or being a lawyer in a High Court, any time before the Constitution started (before August 15, 1947) in areas that were part of India as defined by the Government of India Act, 1935, is included.

(3) If there is any question about the age of a High Court Judge, the President will decide after consulting with the Chief Justice of India, and the President's decision will be final.

Explanation using Example

Example 1:

Scenario: Appointment of a High Court Judge

Mr. Rajesh Sharma, a distinguished advocate with over 15 years of experience practicing in the Delhi High Court, is being considered for appointment as a Judge of the Delhi High Court. The National Judicial Appointments Commission (NJAC) recommends his name to the President of India. The President, after consulting with the Governor of Delhi and the Chief Justice of the Delhi High Court, appoints Mr. Sharma as a Judge of the Delhi High Court by issuing a warrant under his hand and seal.

Explanation: This example illustrates the process of appointing a High Court Judge, where the NJAC recommends a candidate, and the President, in consultation with relevant authorities, makes the appointment.

Example 2:

#### Scenario: Resignation of a High Court Judge

Justice Meera Patel, a Judge of the Bombay High Court, decides to resign from her position due to personal reasons. She writes a resignation letter addressed to the President of India. Upon receiving her resignation, the President accepts it, and Justice Patel's office is vacated.

Explanation: This example demonstrates the procedure for a High Court Judge to resign from office by writing to the President.

#### Example 3:

#### Scenario: Removal of a High Court Judge

Justice Arvind Kumar, a Judge of the Karnataka High Court, is found to be involved in misconduct. Following the procedure outlined in Article 124(4) of the Constitution, an inquiry is conducted, and the President, upon receiving the report, decides to remove Justice Kumar from his office.

Explanation: This example shows the process of removing a High Court Judge for misconduct, which involves an inquiry and a decision by the President.

#### Example 4:

#### Scenario: Transfer of a High Court Judge

Justice Priya Singh, a Judge of the Calcutta High Court, is transferred to the Madras High Court by the President of India. The transfer is made to address the need for experienced judges in the Madras High Court.

Explanation: This example illustrates the President's power to transfer a High Court Judge from one High Court to another within India.

#### Example 5:

#### Scenario: Qualification for Appointment as a High Court Judge

Mr. Anil Verma, who has served as a District Judge in Uttar Pradesh for 12 years, is being considered for appointment as a Judge of the Allahabad High Court. Since Mr. Verma has held a judicial office for more than ten years, he meets the qualification criteria for appointment as a High Court Judge.

Explanation: This example highlights the qualification requirement for a High Court Judge, which includes holding a judicial office for at least ten years.

Example 6:

Scenario: Dispute Regarding Age of a High Court Judge

A dispute arises regarding the age of Justice Ramesh Gupta, a Judge of the Punjab and Haryana High Court. The President of India, after consulting with the Chief Justice of India, decides on the matter and declares the official age of Justice Gupta, which is considered final.

Explanation: This example demonstrates the procedure for resolving disputes related to the age of a High Court Judge, where the President's decision, after consultation with the Chief Justice of India, is final.

**Article 218: Application of certain provisions relating to Supreme Court to High Courts.**

The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

**Simplified act**

The rules mentioned in clauses (4) and (5) of article 124, which are about the Supreme Court, will also apply to the High Court. However, wherever it says "Supreme Court," it should be read as "High Court" instead.

Explanation using Example

Example 1:

Scenario: Appointment of a High Court Judge

Context: Article 124(4) and (5) of the Constitution of India deal with the procedure for the removal of a Supreme Court judge. Article 218 states that these provisions also apply to High Court judges.

Example: Justice Sharma, a judge of the High Court of Delhi, is accused of misconduct. According to Article 218, the same procedure used for the removal of a Supreme Court judge under Article 124(4) and (5) will be followed. This means that an inquiry will be conducted, and if the allegations are proven, a motion for removal will be presented in Parliament. If the motion is passed by a two-thirds majority in both houses, Justice Sharma will be removed from office.

Example 2:

Scenario: Transfer of a High Court Judge

Context: Article 124(4) and (5) also include provisions related to the transfer of judges. Article 218 ensures these provisions apply to High Court judges as well.

Example: Justice Rao, a judge of the High Court of Karnataka, is being considered for transfer to the High Court of Punjab and Haryana. The process for this transfer will follow the same guidelines as those for transferring a Supreme Court judge, as stipulated in Article 124(4) and (5). This includes consultation with the Chief Justice of India and obtaining the President's approval. Once these steps are completed, Justice Rao will be officially transferred to the High Court of Punjab and Haryana.

### **Article 219: Oath or affirmation by Judges of High Courts.**

Every person appointed to be a Judge of a High Court shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

### **Simplified act**

Before starting their job, every person chosen to be a Judge of a High Court must take an oath or make a promise.

This oath or promise must be made in front of the Governor of the State or someone the Governor has chosen for this task.

The oath or promise must follow the specific format given in the Third Schedule.

Explanation using Example

Example 1:

Scenario: Appointment of a New High Court Judge in Maharashtra

Context: Advocate Priya Sharma has been appointed as a Judge of the Bombay High Court.

Application of Article 219: Before Priya Sharma can officially start her duties as a High Court Judge, she must take an oath or make an affirmation. This oath

must be taken in front of the Governor of Maharashtra or a person appointed by the Governor for this purpose.

Process:

The Governor of Maharashtra schedules a formal ceremony for the oath-taking.

Priya Sharma attends the ceremony and makes the oath or affirmation as per the form set out in the Third Schedule of the Constitution of India.

After taking the oath, Priya Sharma is officially recognized as a Judge of the Bombay High Court and can begin her judicial duties.

Example 2:

Scenario: Transfer of a High Court Judge to a Different State

Context: Judge Rajesh Kumar, currently serving in the Madras High Court, is transferred to the Allahabad High Court.

Application of Article 219: Even though Judge Rajesh Kumar has already taken an oath when he was appointed as a Judge of the Madras High Court, he must take the oath again before he can start his duties at the Allahabad High Court.

Process:

Upon his transfer, the Governor of Uttar Pradesh arranges a ceremony for the oath-taking.

Judge Rajesh Kumar attends the ceremony and makes the oath or affirmation in front of the Governor of Uttar Pradesh or a person appointed by the Governor.

After taking the oath, Judge Rajesh Kumar is officially recognized as a Judge of the Allahabad High Court and can commence his judicial responsibilities there.

### **Article 220: Restriction on practice after being a permanent Judge.**

No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

Explanation

In this article, the expression "High Court" does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement of the Constitution (Seventh Amendment) Act, 1956.

### **Simplified act**

No person who, after the start of this Constitution, has served as a permanent Judge of a High Court is allowed to work as a lawyer or represent anyone in any court or before any authority in India, except in the Supreme Court and other High Courts.

#### Explanation

In this article, the term "High Court" does not include a High Court for a State listed in Part B of the First Schedule as it was before the Constitution (Seventh Amendment) Act, 1956 came into effect.

#### Explanation using Example

##### Example 1:

Justice Sharma served as a permanent judge in the Delhi High Court for 15 years before retiring. After his retirement, he was approached by a law firm to represent a client in a property dispute case in the Delhi District Court. According to Article 220 of the Constitution of India, Justice Sharma cannot plead or act in any court or before any authority in India except the Supreme Court and other High Courts. Therefore, he must decline the offer to represent the client in the Delhi District Court.

##### Example 2:

Justice Mehta, who served as a permanent judge in the Bombay High Court, retired recently. After his retirement, he was invited to act as a legal advisor for a corporate firm and represent them in a tax dispute before the Income Tax Appellate Tribunal. According to Article 220, Justice Mehta is restricted from pleading or acting in any court or before any authority in India except the Supreme Court and other High Courts. Hence, he cannot represent the corporate firm before the Income Tax Appellate Tribunal but can provide legal advice without appearing before the tribunal.

##### Example 3:

Justice Rao, a retired permanent judge of the Madras High Court, was requested to represent a client in a criminal case before the Supreme Court of

India. According to Article 220, Justice Rao is allowed to plead or act in the Supreme Court even after his retirement as a permanent judge of a High Court. Therefore, he can accept the request and represent the client in the Supreme Court.

Example 4:

Justice Singh, who served as a permanent judge in the Punjab and Haryana High Court, retired and was later asked to represent a case in the Rajasthan High Court. According to Article 220, Justice Singh is permitted to plead or act in other High Courts after his retirement. Thus, he can take up the case and represent the client in the Rajasthan High Court.

### **Article 221: Salaries, etc., of Judges.**

(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect to leave of absence or pension shall be varied to his disadvantage after his appointment.

### **Simplified act**

(1) Judges of each High Court will receive salaries that are decided by Parliament through a law. Until such a law is made, they will get the salaries listed in the Second Schedule.

(2) Every Judge will also get allowances, leave of absence, and pension benefits as decided by Parliament through a law. Until such a law is made, they will get the allowances and benefits listed in the Second Schedule:

However, once a Judge is appointed, their allowances, leave of absence, or pension benefits cannot be changed in a way that is worse for them.

Explanation using Example

Example 1:



Justice Rao has been appointed as a Judge of the High Court of Karnataka. According to Article 221 of the Constitution of India, his salary is determined by a law passed by the Parliament. Until such a law is enacted, his salary is specified in the Second Schedule of the Constitution. Justice Rao is also entitled to allowances, leave of absence, and pension benefits as determined by Parliament. Importantly, once Justice Rao is appointed, his allowances, leave, or pension benefits cannot be reduced to his disadvantage.

Example 2:

Justice Mehta, a sitting Judge of the High Court of Delhi, is planning to take a sabbatical for health reasons. Under Article 221, he is entitled to leave of absence as determined by the law made by Parliament. If Parliament has not made specific provisions, the Second Schedule of the Constitution will apply. Justice Mehta's leave benefits, as well as his pension rights, cannot be altered to his disadvantage after his appointment. This ensures that Justice Mehta can take his leave without worrying about any reduction in his benefits.

### **Article 222: Transfer of a Judge from one High Court to another.**

(1) The President may, on the recommendation of the National Judicial Appointments Commission referred to in article 124A, transfer a Judge from one High Court to any other High Court \* \* \*.

(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.

### **Simplified act**

(1) The President can move a Judge from one High Court to another High Court based on the advice of the National Judicial Appointments Commission mentioned in article 124A.

(2) When a Judge is moved to a different High Court, they will get an extra allowance on top of their salary. This extra allowance will be decided by Parliament through a law. Until Parliament decides, the President will set the amount of this allowance.

Explanation using Example

#### Example 1:

Justice Arvind Kumar has been serving as a judge in the High Court of Karnataka for several years. Due to an increase in the number of cases and a shortage of judges in the High Court of Delhi, the National Judicial Appointments Commission (NJAC) recommends his transfer to the High Court of Delhi. The President of India, acting on this recommendation, issues an order transferring Justice Arvind Kumar to the High Court of Delhi. Upon his transfer, Justice Kumar is entitled to receive a compensatory allowance in addition to his regular salary, as determined by the Parliament or fixed by the President until such determination is made.

#### Example 2:

Justice Meera Sharma has been serving in the High Court of Kerala. The High Court of Punjab and Haryana is facing a backlog of cases and requires experienced judges to manage the workload. The NJAC recommends Justice Sharma's transfer to the High Court of Punjab and Haryana. The President approves this recommendation and issues an order for her transfer. During her tenure at the High Court of Punjab and Haryana, Justice Sharma receives a compensatory allowance along with her salary, as specified by the President until the Parliament decides on the exact amount.

### **Article 223: Appointment of acting Chief Justice.**

When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

### **Simplified act**

If the Chief Justice of a High Court is not available because the position is empty or the Chief Justice is unable to do their job due to being away or any other reason,

Then, another Judge from the same Court will take over the Chief Justice's duties.

The President will choose and appoint which Judge will take over these duties.

#### Explanation using Example

#### Example 1:

The Chief Justice of the High Court of Delhi is scheduled to retire on June 30th. However, the process of appointing a new Chief Justice is still ongoing and will not be completed by the time of the retirement. To ensure that the High Court continues to function smoothly, the President of India appoints Justice A, one of the senior judges of the Delhi High Court, to act as the Chief Justice until a new Chief Justice is officially appointed.

Example 2:

The Chief Justice of the High Court of Karnataka is on a medical leave for three months due to a serious health condition. During this period, the President of India appoints Justice B, another senior judge of the Karnataka High Court, to perform the duties of the Chief Justice. This ensures that the administrative and judicial functions of the High Court are not disrupted during the Chief Justice's absence.

#### **Article 224: Appointment of additional and acting Judges.**

##### **Additional Judges of High Courts**

(1) If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may, in consultation with the National Judicial Appointments Commission, appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may, in consultation with the National Judicial Appointments Commission, appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty-two years.

##### **Temporary Judges**

Notwithstanding anything in this Chapter, the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to

sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

### **Simplified act**

#### Additional Judges of High Courts

(1) If a High Court has a temporary increase in work or a backlog of cases, the President can decide to temporarily increase the number of judges. The President will consult with the National Judicial Appointments Commission and can appoint qualified people as additional judges for a period of up to two years.

(2) If a High Court judge (other than the Chief Justice) is unable to perform their duties due to absence or any other reason, or if they are temporarily acting as Chief Justice, the President can appoint a qualified person to act as a judge until the original judge returns. This decision will also be made in consultation with the National Judicial Appointments Commission.

(3) No additional or acting judge can continue in their position after they turn 62 years old.

#### Temporary Judges

Despite what is stated elsewhere, the National Judicial Appointments Commission can, if requested by the Chief Justice of a High Court and with the President's consent, ask a former judge of that High Court or any other High Court to temporarily serve as a judge. While serving, this person will receive allowances as determined by the President and will have all the powers and privileges of a judge of that High Court, but they will not be considered a permanent judge.

#### Explanation using Example

##### Example 1:

Scenario: The High Court of Maharashtra is experiencing a significant backlog of cases due to an unexpected surge in litigation following a major economic reform. The Chief Justice of the High Court reports this issue to the President of India.

Application of Article 224:

The President, after consulting with the National Judicial Appointments Commission (NJAC), decides to appoint additional judges to the High Court of Maharashtra.

Qualified individuals are appointed as additional judges for a period of one year to help clear the backlog.

These additional judges will serve for the specified period and will not hold office beyond two years or after attaining the age of sixty-two years.

Example 2:

Scenario: A judge of the High Court of Karnataka is temporarily unable to perform his duties due to a serious illness. Additionally, the Chief Justice of the High Court is on a temporary assignment to the Supreme Court.

Application of Article 224:

The President, in consultation with the NJAC, appoints a qualified person to act as a judge of the High Court of Karnataka until the ill judge recovers and resumes his duties.

Another qualified person is appointed to act temporarily as the Chief Justice of the High Court of Karnataka during the Chief Justice's assignment to the Supreme Court.

These acting judges will serve until the permanent judges return to their duties and will not hold office beyond the age of sixty-two years.

Example 3:

Scenario: The Chief Justice of the High Court of Tamil Nadu identifies a need for additional judicial support due to a temporary increase in complex commercial cases.

Application of Article 224:

The Chief Justice makes a reference to the NJAC, requesting the appointment of a temporary judge who has previously served in the High Court of Tamil Nadu.

With the President's consent, the NJAC requests a retired judge to sit and act as a judge of the High Court of Tamil Nadu for a specified period.

The retired judge, while serving temporarily, receives allowances as determined by the President and exercises all the jurisdiction, powers, and privileges of a High Court judge, but is not considered a permanent judge of the High Court.

Example 4:

Scenario: The High Court of Delhi is facing a temporary increase in its workload due to a series of high-profile public interest litigations.

Application of Article 224:

The President, after consulting with the NJAC, appoints additional judges to the High Court of Delhi to manage the increased workload.

These additional judges are appointed for a period of eighteen months.

They will assist in handling the surge in cases and ensure timely justice, but will not continue in office beyond the specified period or after reaching the age of sixty-two years.

#### **Article 224A: Appointment of retired Judges at sittings of High Courts.**

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.

#### **Simplified act**

This article does not mean that any person mentioned above has to sit and act as a Judge of that High Court unless they agree to do so.

Explanation using Example

Example 1:

Justice Sharma, a retired judge of the Delhi High Court, is approached by the Chief Justice of the Delhi High Court to assist with a backlog of cases. Justice Sharma, who has been enjoying his retirement, is not obligated to accept this request. He considers the offer and decides to consent to sit and act as a judge for a limited period to help clear the backlog.

Example 2:

Justice Rao, a retired judge from the Karnataka High Court, is requested by the Chief Justice of the Karnataka High Court to return temporarily to handle a

complex commercial dispute case. Justice Rao, who is currently involved in writing a book, declines the request. According to Article 224A, Justice Rao is not required to sit and act as a judge unless he consents to do so, and his decision to decline is fully respected.

### **Article 225: Jurisdiction of existing High Courts.**

Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

### **Simplified act**

The rules and powers of any existing High Court, and the duties of its Judges, will stay the same as they were before this Constitution started. This includes their ability to make court rules and manage court sessions, whether they are sitting alone or in groups.

However, any limits that were placed on the High Courts' original powers regarding revenue matters or actions taken to collect revenue before this Constitution started will no longer apply.

Explanation using Example

Example 1:

Scenario: A dispute arises between two business partners in Mumbai regarding the distribution of profits from their joint venture. One partner decides to file a lawsuit in the Bombay High Court.

Application of Article 225: The Bombay High Court has the jurisdiction to hear this case as it falls under its original jurisdiction. The court will follow the same

laws and procedures that were in place before the Constitution of India came into effect. The judges have the authority to make rules regarding the court proceedings and can decide whether the case will be heard by a single judge or a division bench.

#### Example 2:

Scenario: A farmer in Punjab challenges a new state law that affects agricultural subsidies, claiming it violates his constitutional rights. He files a petition in the Punjab and Haryana High Court.

Application of Article 225: The Punjab and Haryana High Court has the jurisdiction to hear this constitutional challenge. The court will administer the law as it existed before the Constitution came into effect, subject to any changes made by the appropriate legislature. The judges have the power to regulate the sittings of the court and decide on the procedural aspects of the case, ensuring that justice is administered effectively.

#### Example 3:

Scenario: A taxpayer in Chennai disputes a tax assessment made by the state revenue department and decides to take the matter to the Madras High Court.

Application of Article 225: Before the Constitution of India came into effect, there were certain restrictions on the High Courts' original jurisdiction concerning revenue matters. Article 225 removes these restrictions, allowing the Madras High Court to exercise its original jurisdiction in this tax dispute. The court will follow the same legal principles and procedures that were in place before the Constitution, and the judges can make rules regarding the court's sittings and the administration of justice.

#### Example 4:

Scenario: A public interest litigation (PIL) is filed in the Calcutta High Court challenging the environmental impact of a new industrial project in West Bengal.

Application of Article 225: The Calcutta High Court has the jurisdiction to hear this PIL as part of its original jurisdiction. The court will administer the law as it existed before the Constitution came into effect, subject to any modifications by the appropriate legislature. The judges have the authority to make rules regarding the court proceedings and can decide whether the case will be heard



by a single judge or a division bench, ensuring that the matter is addressed efficiently and justly.

**Article 226: Power of High Courts to issue certain writs.**

(1) Notwithstanding anything in article 32 \* \* \*, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without -

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

**Simplified act**

(1) Despite what is mentioned in article 32, every High Court has the authority, within its jurisdiction, to issue directions, orders, or writs to any person or authority, including the government, within its area. These writs can include habeas corpus (to release someone unlawfully detained), mandamus (to compel a public duty), prohibition (to stop a lower court from acting outside its jurisdiction), quo warranto (to challenge someone's right to hold a public office), and certiorari (to review a lower court's decision). This is to enforce the rights given by Part III of the Constitution and for other purposes.

(2) The High Court can issue these directions, orders, or writs to any government, authority, or person even if they are not located within the High Court's area, as long as the cause of action (reason for the case) arises within the High Court's jurisdiction.

(3) If an interim order (temporary order) is made against a party without giving them copies of the petition and documents supporting the order, and without giving them a chance to be heard, that party can apply to the High Court to cancel the order. They must provide a copy of this application to the party who benefited from the order or their lawyer. The High Court must decide on this application within two weeks from the date it is received or from the date the copy is provided, whichever is later. If the High Court is closed on the last day of this period, it must decide on the next open day. If the High Court does not decide within this time, the interim order will be automatically canceled.

(4) The powers given to the High Court by this article do not take away the powers given to the Supreme Court by clause (2) of article 32.

#### Explanation using Example

##### Example 1:

Ravi, a resident of Maharashtra, was unlawfully detained by the local police without any formal charges. His family, worried about his safety, approached the Bombay High Court seeking a writ of habeas corpus under Article 226. The High Court, after reviewing the case, issued a writ of habeas corpus directing the police to produce Ravi before the court. Upon hearing the case, the court found the detention to be illegal and ordered Ravi's immediate release.

##### Example 2:

Meera, a government school teacher in Tamil Nadu, was unfairly dismissed from her job without any valid reason. She filed a petition in the Madras High Court seeking a writ of mandamus under Article 226, requesting the court to

direct the school authorities to reinstate her. The High Court, after examining the evidence, issued a writ of mandamus ordering the school to reinstate Meera with immediate effect and to pay her the salary for the period she was wrongfully dismissed.

Example 3:

A local NGO in Karnataka discovered that a newly appointed municipal officer did not meet the required qualifications for the position. The NGO filed a petition in the Karnataka High Court seeking a writ of quo warranto under Article 226, questioning the authority by which the officer held the position. The High Court issued a writ of quo warranto, and upon investigation, it was found that the officer's appointment was indeed invalid. The court ordered the removal of the officer from the position.

Example 4:

A factory in Gujarat was operating without adhering to environmental regulations, causing severe pollution in the nearby village. The villagers filed a petition in the Gujarat High Court seeking a writ of prohibition under Article 226 to stop the factory from continuing its harmful activities. The High Court issued a writ of prohibition, directing the factory to cease operations until it complied with the necessary environmental standards.

Example 5:

An individual in West Bengal was denied a fair hearing in a property dispute case by a lower court. Believing that the decision was unjust, he approached the Calcutta High Court seeking a writ of certiorari under Article 226 to review and quash the lower court's decision. The High Court issued a writ of certiorari, reviewed the case, and found procedural errors in the lower court's judgment. Consequently, the High Court quashed the lower court's decision and ordered a retrial.

**Article 226A: Constitutional validity of Central laws not to be considered in proceedings under article 226: Omitted.**

Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 8 (with effect from 13-4-1978).

**Simplified act**

226.. - This section was removed by the Constitution (Forty-third Amendment) Act, 1977, section 8 (effective from April 13, 1978).

Explanation using Example

Example 1:

Scenario: A citizen, Mr. Sharma, files a writ petition in the High Court under Article 226 of the Constitution of India, challenging the validity of a new Central law that imposes additional taxes on small businesses.

Application of the Act: Since Article 226A has been omitted, the High Court will not consider the constitutional validity of the Central law in this proceeding. Instead, Mr. Sharma would need to approach the Supreme Court directly under Article 32 for such a challenge.

Example 2:

Scenario: Ms. Gupta, a resident of Maharashtra, files a writ petition in the Bombay High Court under Article 226, seeking relief against a Central law that she claims violates her fundamental rights.

Application of the Act: Due to the omission of Article 226A, the Bombay High Court will not entertain arguments regarding the constitutional validity of the Central law. Ms. Gupta would have to take her case to the Supreme Court under Article 32 if she wishes to challenge the constitutionality of the Central law.

### **Article 227: Power of superintendence over all courts by the High Court.**

Superintendence of High Courts

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may -

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

(5) \* \* \* \*

### **Simplified act**

#### Supervision by High Courts

(1) Every High Court has the authority to oversee all courts and tribunals within the areas it covers.

(2) In addition to this general authority, the High Court can:

(a) request reports from these courts;

(b) create and issue general rules and forms to manage how these courts operate; and

(c) decide how records and accounts should be kept by the officers of these courts.

(3) The High Court can also set the fees for the sheriff, clerks, officers, attorneys, advocates, and pleaders working in these courts:

Provided that any rules, forms, or fee tables made under points (2) or (3) must not conflict with existing laws and must be approved by the Governor.

(4) This article does not give the High Court the power to oversee any court or tribunal related to the Armed Forces.

(5) \* \* \* \*

#### Explanation using Example

Example 1:

Scenario: A district court in Maharashtra is experiencing significant delays in processing cases due to outdated procedural practices.

Application of Article 227: The High Court of Bombay, exercising its power of superintendence under Article 227, issues a directive to the district court to adopt new procedural rules aimed at expediting case processing. The High Court also prescribes new forms for filing cases and maintaining records to ensure uniformity and efficiency. This intervention helps in reducing the backlog of cases and improves the overall functioning of the district court.

#### Example 2:

Scenario: A litigant in a family court in Tamil Nadu feels that the court's procedures are not transparent and suspects irregularities in the maintenance of court records.

Application of Article 227: The litigant files a petition in the Madras High Court, invoking its supervisory jurisdiction under Article 227. The High Court, upon reviewing the petition, calls for returns from the family court to examine its practices and procedures. The High Court finds discrepancies and issues new rules for maintaining transparency in record-keeping and proceedings. Additionally, the High Court prescribes a new format for the books and accounts to be kept by the family court officers, ensuring better accountability.

#### Example 3:

Scenario: An advocate practicing in a subordinate court in Karnataka finds that the fee structure for legal services is inconsistent and unclear.

Application of Article 227: The advocate approaches the Karnataka High Court, which, under its powers of superintendence, reviews the existing fee structure. The High Court then settles a new table of fees for the clerks, officers, attorneys, advocates, and pleaders practicing in the subordinate courts. This new fee structure is designed to be fair and transparent, and it receives the necessary approval from the Governor before implementation.

#### Example 4:

Scenario: A tribunal dealing with industrial disputes in West Bengal is found to be following outdated practices that are not in line with current legal standards.

Application of Article 227: The Calcutta High Court, using its supervisory powers under Article 227, issues general rules to regulate the practice and proceedings of the industrial tribunal. The High Court also prescribes new forms for the tribunal to use in its proceedings and record-keeping. These changes help in bringing the tribunal's practices up to date with current legal standards, ensuring fair and efficient resolution of industrial disputes.

Example 5:

Scenario: A military court in Punjab is handling a case that a civilian court believes falls under its jurisdiction.

Application of Article 227: The Punjab and Haryana High Court, while having superintendence over civilian courts, does not have the authority to supervise military courts as per Article 227(4). Therefore, the High Court cannot intervene in the proceedings of the military court. The matter would need to be addressed through appropriate military legal channels or higher judicial review if necessary.

#### **Article 228: Transfer of certain cases to High Court.**

If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may:

- (a) either dispose of the case itself, or
- (b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

#### **Simplified act**

If the High Court believes that a case in a lower court involves an important question about interpreting the Constitution, and that answering this question is necessary to resolve the case, the High Court will take over the case and can:

- (a) either decide the whole case itself, or
- (b) answer the important question about the law and then send the case back to the lower court along with its decision on that question. The lower court must then continue with the case based on the High Court's decision.

## Explanation using Example

### Example 1:

Scenario: A dispute arises between two parties over the ownership of a piece of land. The case is initially filed in a District Court. During the proceedings, one party argues that a specific provision of the Constitution, which deals with property rights, needs to be interpreted to resolve the dispute.

Application of Article 228: The District Court recognizes that the interpretation of the constitutional provision is crucial for deciding the case. The court refers the matter to the High Court. The High Court, upon reviewing the case, agrees that a substantial question of law regarding the interpretation of the Constitution is involved. The High Court then withdraws the case from the District Court.

Option (a): The High Court decides to dispose of the entire case itself, including the interpretation of the constitutional provision and the final judgment on the ownership dispute.

Option (b): The High Court interprets the constitutional provision and provides a judgment on the question of law. It then returns the case to the District Court with its judgment. The District Court proceeds to dispose of the case based on the High Court's interpretation.

### Example 2:

Scenario: A criminal case is being heard in a Sessions Court where the accused is charged with sedition. The defense argues that the sedition law, as applied, violates the fundamental right to freedom of speech and expression guaranteed by the Constitution.

Application of Article 228: The Sessions Court acknowledges that the case involves a substantial question of law regarding the interpretation of the Constitution, specifically the balance between sedition laws and freedom of speech. The Sessions Court refers the matter to the High Court. The High Court, after examining the case, agrees that the constitutional question is significant and withdraws the case from the Sessions Court.

Option (a): The High Court decides to handle the entire case, including the interpretation of the constitutional rights and the final verdict on the sedition charges.



Option (b): The High Court focuses on interpreting the constitutional question about freedom of speech and sedition. It then sends the case back to the Sessions Court with its judgment on the constitutional issue. The Sessions Court continues with the trial, applying the High Court's interpretation to reach a final decision.

**Article 228A: Special provisions as to disposal of questions relating to constitutional validity of State laws: Omitted.**

Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 10 (with effect from 13-4-1978).

**Simplified act**

Removed by the Constitution (Forty-third Amendment) Act, 1977, section 10 (effective from April 13, 1978).

Explanation using Example

Example 1:

Scenario: A state government passes a new law that imposes certain restrictions on the freedom of speech within the state. A group of citizens believes that this law violates their constitutional rights and decides to challenge its validity.

Before Omission: Prior to the omission of Article 228A, the High Court of the state would have had special provisions to handle questions regarding the constitutional validity of state laws. The High Court would have been required to form a special bench to decide on the matter.

After Omission: Since Article 228A has been omitted, the High Court no longer has these special provisions. The group of citizens can still challenge the law, but the process will follow the general procedures applicable to constitutional challenges without the need for a special bench.

Example 2:

Scenario: A state enacts a law that changes the reservation policy in educational institutions, which some believe is discriminatory and unconstitutional. A student affected by this law decides to file a petition in the High Court.

Before Omission: If Article 228A were still in effect, the High Court would have had to follow special procedures to address the constitutional validity of the state law, potentially involving a larger bench or a specific process outlined in the Article.

After Omission: With Article 228A omitted, the High Court will handle the petition using the standard judicial process. The student can still seek relief, but the case will be processed like any other constitutional challenge without the special provisions that Article 228A would have required.

### **Article 229: Officers and servants and the expenses of High Courts.**

(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State \* \* \*.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

### **Simplified act**

(1) The Chief Justice of the High Court, or another Judge or officer they choose, will appoint the officers and staff of the High Court:

However, the Governor of the State can make a rule that says for certain positions, no one who isn't already working at the Court can be appointed without first consulting the State Public Service Commission.

(2) The working conditions for the officers and staff of the High Court will be set by rules made by the Chief Justice or another Judge or officer they authorize:

But, if these rules involve salaries, allowances, leave, or pensions, they need to be approved by the Governor of the State.

(3) The running costs of the High Court, including all salaries, allowances, and pensions for its officers and staff, will be paid from the State's main fund (the Consolidated Fund). Any fees or money collected by the Court will also go into this fund.

Explanation using Example

Example 1:

Scenario: Appointment of a Court Clerk

Situation: The Chief Justice of the High Court of Maharashtra needs to appoint a new court clerk. The Chief Justice decides to appoint Mr. Sharma, who is currently working as a clerk in another department of the High Court.

Application of the Act:

According to Article 229(1), the Chief Justice has the authority to appoint officers and servants of the High Court.

Since Mr. Sharma is already attached to the Court, the Chief Justice can appoint him directly without consulting the State Public Service Commission.

Outcome: Mr. Sharma is appointed as the new court clerk by the Chief Justice without any additional consultation.

Example 2:

Scenario: Setting Service Conditions for High Court Staff

Situation: The Chief Justice of the High Court of Karnataka wants to introduce new rules regarding the working hours and leave policies for the court staff.

Application of the Act:

Under Article 229(2), the Chief Justice can prescribe the conditions of service for the officers and servants of the High Court.

The new rules regarding working hours and leave policies are created by the Chief Justice.

However, since these rules relate to salaries, allowances, leave, or pensions, they require the approval of the Governor of Karnataka.

Outcome: The new rules are drafted by the Chief Justice and sent to the Governor for approval. Once approved, the new working hours and leave policies are implemented for the High Court staff.

Example 3:

Scenario: Funding for High Court Administrative Expenses

Situation: The High Court of Tamil Nadu needs additional funds to cover the salaries and pensions of its staff for the upcoming financial year.

Application of the Act:

According to Article 229(3), the administrative expenses of the High Court, including salaries, allowances, and pensions, are charged upon the Consolidated Fund of the State.

The High Court submits a request for additional funds to the State Government, which allocates the required amount from the Consolidated Fund of Tamil Nadu.

Outcome: The necessary funds are provided from the Consolidated Fund, ensuring that all administrative expenses, including staff salaries and pensions, are covered for the High Court of Tamil Nadu.

**Article 230: Extension of jurisdiction of High Courts to Union territories.**

(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory, -

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

### **Simplified act**

(1) Parliament can make laws to either give a High Court authority over a Union territory or take away that authority.

(2) If a State's High Court has authority over a Union territory, then:

(a) The State's Legislature cannot change, limit, or remove that authority.

(b) Any mention of the Governor in Article 227, when it comes to rules, forms, or tables for lower courts in that Union territory, should be understood as referring to the President.

Explanation using Example

Example 1:

Scenario: The Union Territory of Chandigarh does not have its own High Court. The Parliament decides to extend the jurisdiction of the Punjab and Haryana High Court to include Chandigarh.

Application:

Parliament's Role: Parliament passes a law stating that the Punjab and Haryana High Court will have jurisdiction over Chandigarh.

State Legislature's Limitation: The Punjab State Legislature cannot pass any law to change this jurisdiction. They cannot increase, restrict, or abolish the High Court's jurisdiction over Chandigarh.

Governor's Reference: Any rules, forms, or tables for subordinate courts in Chandigarh that would normally require the Governor's approval will now require the President's approval instead.

Example 2:

Scenario: The Union Territory of Lakshadweep is currently under the jurisdiction of the Kerala High Court. The Parliament decides to exclude Lakshadweep from the jurisdiction of the Kerala High Court and bring it under the jurisdiction of the Madras High Court.

Application:

Parliament's Role: Parliament enacts a law that removes Lakshadweep from the jurisdiction of the Kerala High Court and places it under the jurisdiction of the Madras High Court.

State Legislature's Limitation: The Kerala State Legislature cannot pass any law to alter this new jurisdiction. They cannot increase, restrict, or abolish the Madras High Court's jurisdiction over Lakshadweep.

Governor's Reference: Any administrative matters for subordinate courts in Lakshadweep that would typically involve the Governor of Kerala will now involve the President of India.

Example 3:

Scenario: The Union Territory of Delhi is under the jurisdiction of the Delhi High Court. Parliament decides to extend the jurisdiction of the Delhi High Court to also cover the Union Territory of Andaman and Nicobar Islands.

Application:

Parliament's Role: Parliament passes a law extending the jurisdiction of the Delhi High Court to include the Andaman and Nicobar Islands.

State Legislature's Limitation: The Delhi State Legislature cannot pass any law to change this jurisdiction. They cannot increase, restrict, or abolish the High Court's jurisdiction over the Andaman and Nicobar Islands.

Governor's Reference: Any rules, forms, or tables for subordinate courts in the Andaman and Nicobar Islands that would normally require the Governor's approval will now require the President's approval instead.

**Article 231: Establishment of a common High Court for two or more States.**

(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court, -

(a) \* \* \* \* \*

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situate; and

(c) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.

### **Simplified act**

(1) Despite what is mentioned earlier in this Chapter, Parliament can make a law to create a shared High Court for two or more States, or for two or more States and a Union territory.

(2) For any such shared High Court, -

(a) \* \* \* \* \*

(b) when article 227 mentions the Governor, it should be understood as referring to the Governor of the State where the lower courts are located; and

(c) when articles 219 and 229 mention the State, it should be understood as referring to the State where the main office of the High Court is located:

Provided that if the main office is in a Union territory, the mentions in articles 219 and 229 of the Governor, Public Service Commission, Legislature, and State's Consolidated Fund should be understood as referring to the President, Union Public Service Commission, Parliament, and India's Consolidated Fund, respectively.

Explanation using Example

Example 1:

The Indian Parliament decides to establish a common High Court for the states of Punjab and Haryana, along with the Union Territory of Chandigarh. This means that instead of having separate High Courts for each state and the Union Territory, there will be one High Court that serves all three regions.

In this scenario:

If a case arises in a subordinate court in Punjab, any rules or forms related to that court will be approved by the Governor of Punjab.

If a case arises in a subordinate court in Haryana, any rules or forms related to that court will be approved by the Governor of Haryana.

If a case arises in a subordinate court in Chandigarh, any rules or forms related to that court will be approved by the President of India, since Chandigarh is a Union Territory.

Example 2:

The Indian Parliament enacts a law to establish a common High Court for the states of Maharashtra and Goa. The principal seat of this High Court is located in Mumbai, Maharashtra.

In this scenario:

Any references to the "State" in articles 219 and 229 of the Constitution will be understood to refer to Maharashtra, since the principal seat of the High Court is in Mumbai.

If the principal seat were instead located in a Union Territory, such as Daman and Diu, then references to the "Governor" in articles 219 and 229 would be understood to refer to the President of India, and references to the "State" would be understood to refer to the Union Territory.

### **Article 232: Interpretation.**

Articles 230, 231 and 232 substituted by articles 230 and 231 by the Constitution (Seventh Amendment) Act, 1956, s. 16 (with effect from 1-11-1956).

### **Simplified act**

**Simplified act** in Layman's English

Articles 230, 231, and 232 were replaced by new Articles 230 and 231 through the Constitution (Seventh Amendment) Act, 1956, section 16. This change took effect on November 1, 1956.



## Explanation using Example

### Example 1:

Scenario: A new state, "Uttarakhand," is created by bifurcating the state of Uttar Pradesh. The High Court of Uttar Pradesh is located in Allahabad, and there is a need to establish a new High Court for Uttarakhand.

Application of Article 232: Article 232 would be interpreted to determine the jurisdiction and powers of the new High Court in Uttarakhand. It would ensure that the new High Court has the same powers and jurisdiction as the High Court of Uttar Pradesh, ensuring a smooth transition and continuity of judicial processes.

### Example 2:

Scenario: The state of Andhra Pradesh is reorganized, and a new state, Telangana, is formed. The High Court of Andhra Pradesh is located in Hyderabad, which now falls under Telangana.

Application of Article 232: Article 232 would be used to interpret the jurisdiction and powers of the High Court in Hyderabad, now serving Telangana. It would also guide the establishment of a new High Court for Andhra Pradesh, ensuring that both High Courts have the necessary jurisdiction and powers to handle cases effectively in their respective states.

## **CHAPTER VI: SUBORDINATE COURTS**

### **Article 233: Appointment of district judges.**

#### Appointments and Promotions of District Judges

(1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

### **Simplified act**

## Appointments and Promotions of District Judges

(1) The Governor of the State, after talking with the High Court of that State, will decide who becomes a district judge, where they will work, and if they get promoted.

(2) If someone is not already working for the central or state government, they can only become a district judge if they have worked as a lawyer for at least seven years and the High Court recommends them for the job.

### Explanation using Example

#### Example 1:

Rajesh has been practicing as an advocate in the High Court of Karnataka for the past 10 years. He has built a strong reputation for his legal acumen and integrity. The Karnataka High Court, recognizing his contributions and experience, recommends his name to the Governor of Karnataka for the position of a district judge. After reviewing the recommendation and consulting with the High Court, the Governor appoints Rajesh as a district judge in the Mysore district.

#### Example 2:

Meera has been working as a senior advocate in the Bombay High Court for 8 years. She has a clean record and has handled several high-profile cases successfully. The High Court of Bombay, impressed by her performance, recommends her for the position of a district judge. The Governor of Maharashtra, after consulting with the High Court, appoints Meera as a district judge in the Pune district.

#### Example 3:

Anil has been serving as a civil judge in the state judiciary of Tamil Nadu for the past 15 years. His performance has been exemplary, and he has been promoted through the ranks over the years. The High Court of Madras, recognizing his dedication and experience, recommends his promotion to the position of a district judge. The Governor of Tamil Nadu, after consulting with the High Court, approves the promotion and appoints Anil as a district judge in the Coimbatore district.

#### Example 4:

Priya, an advocate with 9 years of experience in the Delhi High Court, has been recommended by the High Court for the position of a district judge. However, during the consultation process, the Governor of Delhi finds that Priya has been involved in a pending disciplinary case. After discussing with the High Court, the Governor decides to withhold the appointment until the case is resolved. Once Priya is cleared of all charges, the Governor, in consultation with the High Court, appoints her as a district judge in the New Delhi district.

**Article 233A: Validation of appointments of, and judgments, etc., delivered by, certain district judges.**

- Notwithstanding any judgment, decree or order of any court, -

(a)

(i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge, made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions.

**Simplified act**

- Despite any decision, order, or ruling from any court, -

(a)

(i) if someone is already working in the judicial service of a State or has been a lawyer for at least seven years, their appointment as a district judge in that State, and

(ii) any posting, promotion, or transfer of such a person as a district judge, made before the Constitution (Twentieth Amendment) Act, 1966, will not be considered illegal or invalid just because it did not follow the rules in article 233 or article 235;

(b) any authority exercised, any judgment, order, or sentence given, and any other action taken before the Constitution (Twentieth Amendment) Act, 1966 by or before any person appointed, posted, promoted, or transferred as a district judge, even if it did not follow the rules in article 233 or article 235, will not be considered illegal or invalid just because it did not follow those rules.

#### Explanation using Example

##### Example 1:

Scenario: Mr. Sharma has been serving as a district judge in the state of Maharashtra since 1965. He was appointed to this position without strictly following the provisions of Article 233 or Article 235 of the Constitution of India. In 1967, a litigant challenges Mr. Sharma's appointment, claiming that his judgments should be invalidated because his appointment did not comply with the constitutional provisions.

Application of Article 233A: According to Article 233A, Mr. Sharma's appointment as a district judge, even if it did not follow the exact provisions of Article 233 or Article 235, is still considered valid. Therefore, all judgments, decrees, and orders passed by Mr. Sharma before the commencement of the Constitution (Twentieth Amendment) Act, 1966, are also deemed valid and cannot be challenged on the basis of his appointment process.

##### Example 2:

Scenario: Ms. Gupta, an advocate with over seven years of experience, was promoted to the position of district judge in the state of Karnataka in 1964. Her promotion did not strictly adhere to the provisions of Article 233 or Article 235. In 1968, a party involved in a case she adjudicated argues that her promotion was invalid and, therefore, her judgment in their case should be nullified.

Application of Article 233A: Under Article 233A, Ms. Gupta's promotion to district judge, even if not in strict compliance with Article 233 or Article 235, is

validated. Consequently, her jurisdiction, judgments, decrees, sentences, and orders made before the commencement of the Constitution (Twentieth Amendment) Act, 1966, are considered legal and cannot be invalidated solely on the grounds of the procedural irregularity in her promotion.

**Article 234: Recruitment of persons other than district judges to the judicial service.**

Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

**Simplified act**

The Governor of the State is responsible for appointing people to the judicial service of the State, except for district judges.

The Governor must follow specific rules when making these appointments.

Before making any appointments, the Governor must consult with the State Public Service Commission.

The Governor must also consult with the High Court that has authority over the State.

Explanation using Example

Example 1:

Ravi, a practicing lawyer with over 10 years of experience, wishes to join the judicial service in the state of Maharashtra as a Civil Judge (Junior Division). According to Article 234 of the Constitution of India, the appointment process for such positions is not handled by the district judges but by the Governor of Maharashtra. The Governor will make the appointment based on the rules established for this purpose. These rules are formulated after consulting the Maharashtra Public Service Commission and the Bombay High Court. Ravi applies for the position, and after clearing the necessary examinations and interviews conducted as per the established rules, he is appointed as a Civil Judge by the Governor.

Example 2:

Priya, a law graduate, is interested in becoming a Magistrate in the state of Tamil Nadu. As per Article 234, the recruitment for this position is managed by the Governor of Tamil Nadu. The Governor, following the rules set for such appointments, consults with the Tamil Nadu Public Service Commission and the Madras High Court. Priya applies for the position, and after successfully passing the competitive exams and fulfilling other criteria laid out in the rules, she is appointed as a Magistrate by the Governor. This process ensures that the appointment is fair and in accordance with the established legal framework.

### **Article 235: Control over subordinate courts.**

The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

### **Simplified act**

The High Court has control over district courts and the courts under them. This includes deciding where judges work, promoting them, and approving their leave. This applies to judges who are below the rank of district judge. However, this does not take away any rights these judges have to appeal decisions about their job conditions. The High Court must follow the rules set by law when dealing with these judges.

Explanation using Example

Example 1:

Scenario: A junior civil judge in the state of Maharashtra is seeking a promotion to the position of senior civil judge.

Application of Article 235: The High Court of Maharashtra has the authority to decide on the promotion of the junior civil judge. The High Court will review the judge's performance, qualifications, and other relevant factors before making a decision. If the junior civil judge feels that the decision made by the High Court is unfair, they have the right to appeal the decision as per the laws governing their service conditions.

#### Example 2:

Scenario: A magistrate in the state of Tamil Nadu applies for a three-month leave due to personal reasons.

Application of Article 235: The High Court of Tamil Nadu has the power to grant or deny the leave request of the magistrate. The magistrate must submit a formal leave application to the High Court, which will then consider the request based on the rules and regulations governing judicial service. If the magistrate believes that the leave decision is not in accordance with the service rules, they can appeal the decision through the appropriate legal channels.

#### Example 3:

Scenario: A district judge in Karnataka is responsible for overseeing the performance and conduct of subordinate judges in the district.

Application of Article 235: While the district judge has administrative responsibilities, the ultimate control over the subordinate judges, including their postings, promotions, and leave, rests with the High Court of Karnataka. The High Court ensures that all actions taken regarding subordinate judges are in line with the established service conditions and legal provisions. If a subordinate judge feels aggrieved by any decision, they can appeal as per the service regulations.

#### Example 4:

Scenario: A family court judge in Uttar Pradesh is transferred to another district within the state.

Application of Article 235: The High Court of Uttar Pradesh has the authority to transfer the family court judge to another district. The decision will be made based on administrative needs, the judge's performance, and other relevant factors. The judge has the right to appeal the transfer if they believe it violates the conditions of their service or is otherwise unjust, following the legal procedures in place for such appeals.

### **Article 236: Interpretation.**

In this Chapter -

(a) the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency

magistrate, sessions judge, additional sessions judge and assistant sessions judge;

(b) the expression "judicial service" means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

### **Simplified act**

In this Chapter -

(a) The term "district judge" includes various types of judges such as:

Judge of a city civil court

Additional district judge

Joint district judge

Assistant district judge

Chief judge of a small cause court

Chief presidency magistrate

Additional chief presidency magistrate

Sessions judge

Additional sessions judge

Assistant sessions judge

(b) The term "judicial service" refers to a group of people who are meant to take up the role of district judge and other lower-level civil judicial positions.

Explanation using Example

Example 1:

Ravi is a judge in a city civil court in Mumbai. He is hearing a case involving a property dispute. According to Article 236 of the Constitution of India, Ravi is considered a "district judge" even though he is not officially titled as such. This means that he has the same authority and responsibilities as a district judge in this context.

Example 2:



Priya is an additional sessions judge in Delhi. She is presiding over a criminal case involving serious charges. Under Article 236, Priya's role as an additional sessions judge is included in the definition of "district judge." This ensures that her decisions and actions carry the same weight and authority as those of a district judge.

**Example 3:**

Anil is a chief judge of a small cause court in Chennai, dealing with minor civil disputes. According to Article 236, Anil is also considered a "district judge" for the purposes of this chapter. This classification allows him to handle cases and make judicial decisions with the same authority as a district judge.

**Example 4:**

Sunita is a newly appointed assistant district judge in Kolkata. She is part of the "judicial service" as defined in Article 236, which means she is on a career path that could eventually lead her to become a district judge. Her current role involves handling civil judicial posts that are considered inferior to the post of district judge, but she is still an integral part of the judicial system.

**Example 5:**

Rajesh is a sessions judge in Bangalore, overseeing a high-profile criminal trial. Under Article 236, his position is explicitly included in the definition of "district judge." This means that his rulings and judgments are recognized with the same authority as those of a district judge, ensuring consistency in the judicial system.

**Example 6:**

Meera is an additional chief presidency magistrate in Hyderabad, dealing with cases related to municipal laws and minor offenses. According to Article 236, her role is included in the definition of "district judge." This inclusion ensures that her judicial decisions are given the same respect and authority as those made by a district judge.

**Article 237: Application of the provisions of this Chapter to certain class or classes of magistrates.**

- The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall with effect from such date as may be fixed by him in that behalf apply in relation to any class or classes of

magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

### **Simplified act**

The Governor can announce publicly that the rules and provisions in this Chapter will start applying to certain types of magistrates in the State from a date he decides. These rules will apply to these magistrates in the same way they apply to people in the State's judicial service, but there might be some exceptions and changes mentioned in the announcement.

Explanation using Example

Example 1:

The Governor of Maharashtra issues a public notification stating that starting from January 1, 2024, the provisions of Chapter VI of Part VI of the Constitution of India, which pertain to subordinate courts, will also apply to all First Class Magistrates in the state. This means that the rules and regulations governing the judicial service of the state will now also govern the conduct, appointment, and duties of First Class Magistrates, with certain specified exceptions. For instance, the notification might specify that First Class Magistrates will have a different retirement age compared to other judicial officers.

Example 2:

In the state of Karnataka, the Governor decides to extend the provisions of Chapter VI of Part VI of the Constitution to Second Class Magistrates. A public notification is issued, effective from April 1, 2023, stating that the rules applicable to the judicial service of the state will now also apply to Second Class Magistrates. However, the notification includes a modification that Second Class Magistrates will not be required to undergo the same training program as other judicial officers. This ensures that while the overarching rules apply, certain practical adjustments are made to suit the specific class of magistrates.

### **Article 239: Administration of Union territories.**

(1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit,

through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

### **Simplified act**

(1) Unless Parliament decides otherwise, every Union territory will be managed by the President. The President can choose how much control he wants to have and will appoint an administrator to help him, giving this person a title he decides on.

(2) Despite what is mentioned in Part VI, the President can also appoint the Governor of a nearby State to be the administrator of a neighboring Union territory. If a Governor is appointed as an administrator, he will perform his duties independently, without needing to consult his Council of Ministers.

Explanation using Example

Example 1:

Scenario: Administration of Delhi as a Union Territory

Explanation: Delhi is a Union Territory with a special status, having its own legislative assembly. However, the ultimate administrative control lies with the President of India.

Application: The President appoints an Administrator, known as the Lieutenant Governor (LG) of Delhi. The LG has significant powers and can act independently of the elected government of Delhi in certain matters, especially those related to public order, police, and land. For instance, if the Delhi government proposes a new law related to land use, the LG has the authority to approve or reject it based on the President's directives.

Example 2:

Scenario: Administration of Lakshadweep as a Union Territory

Explanation: Lakshadweep is a Union Territory without a legislative assembly, meaning it is directly governed by the central government.

Application: The President appoints an Administrator for Lakshadweep. This Administrator is responsible for the day-to-day administration of the territory. For example, if there is a need to implement a new educational policy in Lakshadweep, the Administrator, acting on behalf of the President, will oversee its implementation. The Administrator has the authority to make decisions on various administrative matters without needing approval from a local legislative body.

Example 3:

Scenario: Governor of Maharashtra appointed as Administrator of Dadra and Nagar Haveli

Explanation: The President can appoint the Governor of a neighboring state as the Administrator of a Union Territory.

Application: Suppose the President appoints the Governor of Maharashtra as the Administrator of Dadra and Nagar Haveli. In this case, the Governor will manage the administration of Dadra and Nagar Haveli independently of the Maharashtra state government. For instance, if there is a need to address a public health crisis in Dadra and Nagar Haveli, the Governor, acting as the Administrator, will take necessary actions independently, without consulting the Maharashtra state government.

Example 4:

Scenario: Special Administrative Measures in Andaman and Nicobar Islands

Explanation: The President has the flexibility to decide the extent of administrative control through the appointed Administrator.

Application: If the President decides that certain areas of administration in the Andaman and Nicobar Islands require special attention, he can direct the Administrator to focus on those areas. For example, if there is a need to enhance coastal security, the President can instruct the Administrator to prioritize and implement specific security measures. The Administrator will then act on these directives, ensuring that the President's instructions are carried out effectively.

**Article 239A: Creation of local Legislatures or Council of Ministers or both for certain Union territories.**

(1) Parliament may by law create for the Union territory of Puducherry -

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

### **Simplified act**

(1) Parliament can make a law for the Union territory of Puducherry to:

(a) create a body that can act as a Legislature for Puducherry. This body can be either fully elected or a mix of elected and nominated members, or

(b) create a Council of Ministers,

or both. The specific structure, powers, and duties of these bodies will be detailed in the law.

(2) Any law made under point (1) will not be considered a change to the Constitution under article 368, even if it includes provisions that change or seem to change the Constitution.

Explanation using Example

Example 1:

The Parliament of India decides to enhance the governance structure of the Union Territory of Puducherry. They pass a law creating a Legislative Assembly for Puducherry, which consists of 30 elected members and 3 nominated members. This Assembly is given the power to make laws on subjects listed in the State List and Concurrent List, similar to the powers of state legislatures in India. Additionally, a Council of Ministers headed by a Chief Minister is established to aid and advise the Lieutenant Governor of Puducherry. This setup allows Puducherry to have a more localized and representative form of governance, addressing the specific needs and aspirations of its residents.

Example 2:

Imagine a scenario where the Parliament of India enacts a law that establishes only a Council of Ministers for the Union Territory of Puducherry, without creating a separate Legislative Assembly. This Council of Ministers, led by a Chief Minister, is tasked with assisting the Lieutenant Governor in the administration of the Union Territory. The law specifies that the Council of Ministers will have the authority to make decisions on certain administrative matters, such as public health, education, and local infrastructure. This arrangement ensures that there is a local executive body to manage day-to-day affairs, while the legislative powers remain with the Parliament of India.

**Article 239AA: Special provisions with respect to Delhi.**

(1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2)

(a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to "appropriate Legislature" shall be deemed to be a reference to Parliament.

(3)

(a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union

territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten per cent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(7)

(a) Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.

(b) Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.

(8) The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union territory of Puducherry, the administrator and its Legislature, respectively; and any reference in that article to "clause (1) of article 239A" shall be deemed to be a reference to this article or article 239AB, as the case may be.

### **Simplified act**

(1) Starting from the date when the Constitution (Sixty-ninth Amendment) Act, 1991, comes into effect, the Union territory of Delhi will be known as the National Capital Territory of Delhi (referred to as the National Capital Territory in this part). The administrator appointed under article 239 will be called the Lieutenant Governor.

(2)

(a) There will be a Legislative Assembly for the National Capital Territory. The members of this Assembly will be chosen by direct elections from different areas within the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into different areas for elections, and all other matters related to the



functioning of the Legislative Assembly will be decided by laws made by Parliament.

(c) The rules in articles 324 to 327 and 329 will apply to the National Capital Territory, its Legislative Assembly, and its members just like they apply to a State, its Legislative Assembly, and its members. Any reference in articles 326 and 329 to "appropriate Legislature" will be considered a reference to Parliament.

(3)

(a) The Legislative Assembly has the power to make laws for the whole or any part of the National Capital Territory on matters listed in the State List or the Concurrent List, as long as these matters apply to Union territories. However, this does not include matters listed under Entries 1, 2, and 18 of the State List and Entries 64, 65, and 66 as they relate to Entries 1, 2, and 18.

(b) Parliament still has the power to make laws for any matter concerning a Union territory or any part of it, regardless of the Legislative Assembly's powers.

(c) If a law made by the Legislative Assembly conflicts with a law made by Parliament on the same matter, the law made by Parliament will prevail, and the conflicting part of the Legislative Assembly's law will be void. However, if the Legislative Assembly's law has been approved by the President, it will prevail in the National Capital Territory. Parliament can still make new laws on the same matter at any time, including changing or repealing the Legislative Assembly's law.

(4) There will be a Council of Ministers, including the Chief Minister, consisting of no more than ten percent of the total members in the Legislative Assembly. They will help and advise the Lieutenant Governor on matters where the Legislative Assembly has the power to make laws, except where the Lieutenant Governor is required to act on his own discretion by law:

If there is a disagreement between the Lieutenant Governor and his Ministers, the Lieutenant Governor will refer the matter to the President for a decision and act according to the President's decision. While waiting for the President's decision, if the matter is urgent, the Lieutenant Governor can take immediate action as he deems necessary.

(5) The Chief Minister will be appointed by the President. Other Ministers will be appointed by the President based on the Chief Minister's advice. The Ministers will hold office as long as the President wishes.

(6) The Council of Ministers will be collectively responsible to the Legislative Assembly.

(7)

(a) Parliament can make laws to implement or supplement the provisions mentioned above and for all related matters.

(b) Any such law will not be considered an amendment to the Constitution for the purposes of article 368, even if it changes or has the effect of changing the Constitution.

(8) The provisions of article 239B will apply to the National Capital Territory, the Lieutenant Governor, and the Legislative Assembly, just like they apply to the Union territory of Puducherry, its administrator, and its Legislature. Any reference in article 239B to "clause (1) of article 239A" will be considered a reference to this article or article 239AB, as applicable.

Explanation using Example

Example 1:

Scenario: A new law on public transportation is proposed in Delhi.

Explanation:

The Legislative Assembly of Delhi decides to create a new law to improve public transportation within the city.

The Assembly drafts the law and passes it through a majority vote.

However, the law must be in line with the Constitution and cannot conflict with any existing laws made by Parliament.

If there is a conflict, the law made by Parliament will prevail unless the President has given assent to the new law proposed by the Delhi Legislative Assembly.

Example 2:

Scenario: Appointment of the Chief Minister and Council of Ministers in Delhi.

Explanation:

After elections, a political party wins the majority of seats in the Delhi Legislative Assembly.

The President of India appoints the leader of the winning party as the Chief Minister of Delhi.

The Chief Minister then advises the President on the appointment of other ministers.

These ministers form the Council of Ministers, which is collectively responsible to the Legislative Assembly.

The Council of Ministers aids and advises the Lieutenant Governor on matters where the Legislative Assembly has the power to make laws.

Example 3:

Scenario: Conflict between the Lieutenant Governor and the Council of Ministers.

Explanation:

The Council of Ministers proposes a new policy on healthcare in Delhi.

The Lieutenant Governor disagrees with the proposed policy.

According to the Constitution, the Lieutenant Governor refers the matter to the President of India for a final decision.

While waiting for the President's decision, if the Lieutenant Governor believes the matter is urgent, he can take immediate action as he deems necessary.

Example 4:

Scenario: Division of Delhi into electoral constituencies.

Explanation:

The Parliament of India decides the total number of seats in the Delhi Legislative Assembly and the number of seats reserved for Scheduled Castes.

Parliament also determines how Delhi is divided into different electoral constituencies.

These decisions are made to ensure fair representation and are regulated by laws passed by Parliament.

Example 5:

Scenario: Legislative Assembly's power to make laws.

Explanation:

The Delhi Legislative Assembly has the power to make laws on various subjects listed in the State List and Concurrent List, except for certain matters like public order, police, and land.

For example, the Assembly can make laws on education, health, and transport within Delhi.

However, if Parliament makes a law on the same subject, the law made by Parliament will take precedence over the law made by the Delhi Legislative Assembly.

### **Article 239AB: Provision in case of failure of constitutional machinery.**

If the President, on receipt of a report from the Lieutenant Governor or otherwise, is satisfied -

- (a) that a situation has arisen in which the administration of the National Capital Territory cannot be carried on in accordance with the provisions of article 239AA or of any law made in pursuance of that article; or
- (b) that for the proper administration of the National Capital Territory it is necessary or expedient so to do,

the President may by order suspend the operation of any provision of article 239AA or of all or any of the provisions of any law made in pursuance of that article for such period and subject to such conditions as may be specified in such law and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the National Capital Territory in accordance with the provisions of article 239 and article 239AA.

### **Simplified act**

If the President receives a report from the Lieutenant Governor or gets information in some other way, and is convinced that:

(a) there is a situation where the government of the National Capital Territory (NCT) cannot function according to the rules in article 239AA or any law made under that article; or

(b) it is necessary or helpful for the proper administration of the NCT,

the President can issue an order to temporarily stop any part of article 239AA or any related laws from being in effect. This suspension can last for a specific period and under certain conditions as mentioned in the law. The President can also make any additional rules or changes needed to manage the NCT according to articles 239 and 239AA.

#### Explanation using Example

##### Example 1:

###### Scenario: Political Deadlock in Delhi

**Situation:** The National Capital Territory of Delhi is experiencing a severe political deadlock. The elected government and the Lieutenant Governor are unable to agree on key administrative decisions, leading to a complete halt in the functioning of the government. Essential services like healthcare, sanitation, and public transport are severely affected.

**Application of Article 239AB:** The Lieutenant Governor sends a report to the President detailing the administrative paralysis and the inability to govern in accordance with Article 239AA. The President, after reviewing the report, determines that the situation necessitates intervention to restore proper administration.

**Action Taken:** The President issues an order suspending certain provisions of Article 239AA, allowing the central government to take over the administration of Delhi temporarily. This ensures that essential services are restored and the administration functions smoothly until the political deadlock is resolved.

##### Example 2:

###### Scenario: Emergency Situation in Delhi

**Situation:** Delhi faces a severe natural disaster, such as a massive earthquake, which disrupts the normal functioning of the government. The local administration is overwhelmed and unable to manage the crisis effectively, leading to chaos and a breakdown of law and order.

Application of Article 239AB: The Lieutenant Governor reports the situation to the President, highlighting the inability of the local government to handle the emergency in accordance with Article 239AA. The President, recognizing the urgency and the need for efficient administration, decides to intervene.

Action Taken: The President issues an order suspending certain provisions of Article 239AA, allowing the central government to take over the administration of Delhi. This enables the deployment of additional resources and personnel to manage the disaster response effectively, ensuring the safety and well-being of the residents until the situation is brought under control.

**Article 239B: Power of administrator to promulgate Ordinances during recess of Legislature.**

(1) If at any time, except when the Legislature of the Union territory of Puducherry is in session, the administrator thereof is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that no such Ordinance shall be promulgated by the administrator except after obtaining instructions from the President in that behalf:

Provided further that whenever the said Legislature is dissolved, or its functioning remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the administrator shall not promulgate any Ordinance during the period of such dissolution or suspension.

(2) An Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the Union territory which has been duly enacted after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, but every such Ordinance -

(a) shall be laid before the Legislature of the Union territory and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature or if, before the expiration of that period, a resolution disapproving it is passed by the Legislature, upon the passing of the resolution; and

(b) may be withdrawn at any time by the administrator after obtaining instructions from the President in that behalf.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the Union territory made after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, it shall be void.

(4)

### **Simplified act**

(1) If at any time, except when the Legislature of the Union territory of Puducherry is in session, the administrator believes that there is an urgent situation that requires immediate action, he can issue temporary laws called Ordinances:

Provided that the administrator must get permission from the President before issuing any such Ordinance:

Also, if the Legislature is dissolved or its activities are suspended due to any law mentioned in clause (1) of article 239A, the administrator cannot issue any Ordinance during that time.

(2) An Ordinance issued with the President's permission will be considered as if it were a law passed by the Legislature of the Union territory, following the rules mentioned in clause (1) of article 239A. However, every such Ordinance -

(a) must be presented to the Legislature of the Union territory and will stop being effective six weeks after the Legislature meets again, or earlier if the Legislature passes a resolution disapproving it; and

(b) can be withdrawn at any time by the administrator with the President's permission.

(3) If any part of an Ordinance issued under this article would not be valid if it were part of a law passed by the Legislature of the Union territory following the rules mentioned in clause (1) of article 239A, that part of the Ordinance will be invalid.

(4)

Explanation using Example

Example 1:

Scenario: A sudden outbreak of a contagious disease occurs in Puducherry while the Legislature is not in session.

Application of Article 239B: The Administrator of Puducherry, recognizing the urgent need to control the outbreak, decides that immediate action is necessary. He consults with the President of India and obtains instructions to promulgate an Ordinance. The Ordinance mandates temporary quarantine measures, restrictions on public gatherings, and the establishment of emergency medical facilities.

Outcome: The Ordinance is implemented immediately to control the disease spread. Once the Legislature reconvenes, the Ordinance is laid before it. If the Legislature does not disapprove it within six weeks, the Ordinance continues to operate as if it were a law passed by the Legislature. If the Legislature disapproves it, the Ordinance ceases to operate.

#### Example 2:

Scenario: The Legislature of Puducherry is dissolved due to political instability, and there is a need to address a critical environmental issue, such as illegal sand mining.

Application of Article 239B: During the period of dissolution, the Administrator cannot promulgate any Ordinance. Therefore, despite the urgency of the environmental issue, the Administrator must wait until the Legislature is reconstituted or its suspension is lifted to take legislative action.

Outcome: The Administrator can only take administrative measures within existing laws to address the issue temporarily. Once the Legislature is back in session, the Administrator can propose a new law or Ordinance to tackle illegal sand mining effectively.

#### Example 3:

Scenario: A severe cyclone hits Puducherry, causing widespread damage, and the Legislature is not in session.

Application of Article 239B: The Administrator, seeing the need for immediate relief and rehabilitation measures, consults with the President and obtains instructions to promulgate an Ordinance. The Ordinance allocates funds for disaster relief, sets up temporary shelters, and provides for the repair of infrastructure.



Outcome: The Ordinance is enacted immediately to provide necessary relief to the affected population. When the Legislature reconvenes, the Ordinance is presented for approval. If the Legislature does not disapprove it within six weeks, it continues to operate as law. If disapproved, it ceases to operate, but the immediate relief provided during the crisis remains valid.

Example 4:

Scenario: The Administrator of Puducherry wants to introduce a new tax to fund a public project, but the Legislature is not in session.

Application of Article 239B: The Administrator believes the new tax is urgently needed and consults with the President. After obtaining instructions, the Administrator promulgates an Ordinance to introduce the new tax.

Outcome: The new tax is implemented immediately. When the Legislature reconvenes, the Ordinance is laid before it. If the Legislature does not disapprove it within six weeks, the tax continues to be collected as if it were a law passed by the Legislature. If the Legislature disapproves it, the tax collection ceases, and any collected funds must be handled according to the disapproval resolution.

**Article 240: Power of President to make regulations for certain Union territories.**

(1) The President may make regulations for the peace, progress and good government of the Union territory of -

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;
- (d) \* \* \* \*;
- (e) Puducherry;
- (f) \* \* \*;
- (g) \* \* \*;

Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Puducherry, the President shall not make any regulation for the peace, progress and good government of that Union

territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Puducherry is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory.

(2) Any regulation so made may repeal or amend any Act made by Parliament or any other law, which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.

### **Simplified act**

(1) The President can create rules to ensure peace, progress, and good governance in the following Union territories:

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;
- (d) \* \* \* \*;
- (e) Puducherry;
- (f) \* \* \*;
- (g) \* \* \*;

However, if a legislative body is set up under article 239A to act as the Legislature for Puducherry, the President cannot make any rules for Puducherry from the date of the first meeting of that Legislature.

Additionally, if the legislative body for Puducherry is dissolved or its functions are suspended due to any action under article 239A, the President can make rules for Puducherry during that period of dissolution or suspension.

(2) Any rules made by the President can change or cancel any existing laws made by Parliament or any other applicable laws in the Union territory. Once

these rules are announced by the President, they will have the same power and effect as an Act of Parliament that applies to that territory.

#### Explanation using Example

##### Example 1:

Scenario: The Andaman and Nicobar Islands face a sudden environmental crisis due to a natural disaster, such as a tsunami.

Application of Article 240: The President of India, recognizing the urgent need for effective governance and relief measures, issues a regulation to establish a special disaster management authority for the Andaman and Nicobar Islands. This regulation includes provisions for emergency funding, coordination of rescue operations, and rehabilitation of affected communities. The regulation is designed to ensure the peace, progress, and good government of the Union territory during the crisis.

##### Example 2:

Scenario: The Union territory of Puducherry's Legislative Assembly is dissolved due to political instability.

Application of Article 240: During the period of dissolution, the President steps in to ensure the smooth functioning of the territory. The President issues a regulation to implement a temporary administrative framework that includes the appointment of an interim administrator, guidelines for maintaining law and order, and measures to ensure the continuity of essential public services. This regulation remains in effect until the Legislative Assembly is reconstituted and resumes its functions.

##### Example 3:

Scenario: Lakshadweep requires new regulations to promote tourism while ensuring environmental conservation.

Application of Article 240: The President, aiming to boost the local economy and protect the fragile ecosystem, issues a regulation that outlines sustainable tourism practices. This includes restrictions on construction in ecologically sensitive areas, guidelines for waste management, and incentives for eco-friendly tourism businesses. The regulation is designed to balance economic development with environmental preservation, ensuring the peace, progress, and good government of Lakshadweep.

Example 4:

Scenario: Dadra and Nagar Haveli and Daman and Diu need a new education policy to improve literacy rates.

Application of Article 240: The President, recognizing the need for educational reform, issues a regulation that introduces a comprehensive education policy. This policy includes the establishment of new schools, teacher training programs, and scholarships for underprivileged students. The regulation also amends existing laws to align with the new policy, ensuring that the Union territory's education system is modernized and accessible to all residents.

### **Article 241: High Courts for Union territories.**

(1) Parliament may by law constitute a High Court for a Union territory or declare any court in any such territory to be a High Court for all or any of the purposes of this Constitution.

(2) The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.

(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof.

### **Simplified act**

#### High Courts for Union Territories

(1) Parliament can create a High Court for a Union territory or declare any court in that territory to be a High Court for any purpose under the Constitution.

(2) The rules in Chapter V of Part VI of the Constitution will apply to every High Court mentioned in point (1), just like they apply to High Courts mentioned in Article 214, but with any changes or exceptions that Parliament decides.

(3) Any High Court that was in charge of a Union territory before the Constitution (Seventh Amendment) Act, 1956, will continue to have the same authority over that territory after the amendment, as long as it follows the Constitution and any relevant laws made by the appropriate Legislature.

(4) This article does not limit Parliament's power to extend or remove the authority of a State High Court over any Union territory or part of it.

Explanation using Example

Example 1:

Scenario: Establishment of a High Court for the Union Territory of Ladakh

Explanation: Parliament decides to establish a separate High Court for the Union Territory of Ladakh to handle its legal matters more efficiently.

Application:

Parliament passes a law constituting a High Court specifically for Ladakh.

This new High Court will have the same powers and functions as other High Courts in India, as per Chapter V of Part VI of the Constitution.

The new High Court will start handling all cases that were previously managed by the High Court of Jammu and Kashmir for the region of Ladakh.

Example 2:

Scenario: Extension of Delhi High Court's jurisdiction to the Union Territory of Chandigarh

Explanation: Parliament decides to extend the jurisdiction of the Delhi High Court to include the Union Territory of Chandigarh.

Application:

Parliament enacts a law stating that the Delhi High Court will now also serve as the High Court for Chandigarh.

Residents of Chandigarh can now file their cases in the Delhi High Court.

The Delhi High Court will handle legal matters for both Delhi and Chandigarh, ensuring that the legal processes are streamlined and consistent.

**Example 3:**

**Scenario:** Continuation of jurisdiction of the High Court of Punjab and Haryana over Chandigarh post the Seventh Amendment

**Explanation:** Before the Constitution (Seventh Amendment) Act, 1956, the High Court of Punjab and Haryana had jurisdiction over Chandigarh. This jurisdiction continues even after the amendment.

**Application:**

The High Court of Punjab and Haryana continues to exercise its jurisdiction over Chandigarh as it did before the amendment.

Any legal matters arising in Chandigarh will still be addressed by the High Court of Punjab and Haryana unless Parliament decides otherwise.

**Example 4:**

**Scenario:** Exclusion of a State High Court's jurisdiction from a Union Territory

**Explanation:** Parliament decides to exclude the jurisdiction of the High Court of Maharashtra from the Union Territory of Dadra and Nagar Haveli and Daman and Diu.

**Application:**

Parliament passes a law stating that the High Court of Maharashtra will no longer have jurisdiction over Dadra and Nagar Haveli and Daman and Diu.

Legal matters from Dadra and Nagar Haveli and Daman and Diu will now be handled by a different High Court as specified by Parliament.

This ensures that the legal administration is more tailored to the specific needs of the Union Territory.

**Article 242: Coorg: Omitted.**

Coorg - Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule (with effect from 1-11-1956).

## **Simplified act**

### **Simplified act** in Layman's English

Coorg - Removed by the Constitution (Seventh Amendment) Act, 1956, section 29 and Schedule (effective from November 1, 1956).

Explanation using Example

Example 1:

Ravi, a history student, is researching the administrative changes in Indian territories post-independence. He comes across Article 242 in the Constitution of India, which mentions Coorg. However, he finds that this article has been omitted. Upon further investigation, he learns that Coorg was a separate state until the Constitution (Seventh Amendment) Act, 1956, which reorganized states and territories in India. As a result, Coorg was merged into the state of Mysore (now Karnataka) on November 1, 1956. This helps Ravi understand the historical context of territorial changes in India.

Example 2:

Anita, a lawyer, is preparing a case related to the historical land rights of a family in Coorg. She needs to understand the legal status of Coorg before and after the reorganization of states in 1956. By examining Article 242 and the Constitution (Seventh Amendment) Act, 1956, she discovers that Coorg was a separate state until it was merged into Mysore. This information is crucial for her to argue that the land rights of her clients, which were recognized under the laws of the erstwhile state of Coorg, should still be valid under the current state of Karnataka.

## **PART IX: THE PANCHAYATS**

### **Article 243: Definitions.**

Definitions

In this Part, unless the context otherwise requires, -

(a) "district" means a district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) "intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) "Panchayat area" means the territorial area of a Panchayat;

(f) "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

### **Simplified act**

#### Definitions

In this Part, unless the context otherwise requires, -

(a) "district" means a district in a State;

(b) "Gram Sabha" means a group of people who are registered to vote in a village that is part of the Panchayat area at the village level;

(c) "intermediate level" means a level between the village and district levels, as specified by the Governor of a State through a public announcement, for the purposes of this Part;

(d) "Panchayat" means a local self-government institution (no matter what it is called) set up under article 243B, for rural areas;

(e) "Panchayat area" means the geographical area covered by a Panchayat;

(f) "Population" means the number of people counted in the most recent census for which the relevant data has been published;



(g) "village" means a village specified by the Governor through a public announcement to be a village for the purposes of this Part, and it can also include a group of villages specified in the same way.

#### Explanation using Example

##### Example 1:

Scenario: Establishing a Gram Sabha in a Village

Context: A village named "Sundarpur" in the state of Maharashtra is looking to establish a Gram Sabha as per the provisions of Article 243.

Application:

District: Sundarpur is located in the district of Nagpur.

Gram Sabha: The Gram Sabha will consist of all the persons registered in the electoral rolls of Sundarpur village.

Panchayat: The Panchayat for Sundarpur will be constituted under Article 243B and will act as the self-government institution for the village.

Panchayat Area: The territorial area of Sundarpur village will be defined as the Panchayat area.

Population: The population of Sundarpur will be considered as per the last census data published.

Village: Sundarpur will be officially notified as a village by the Governor of Maharashtra for the purposes of this Part.

##### Example 2:

Scenario: Defining Intermediate Level Panchayat

Context: The state of Karnataka is organizing its Panchayat system and needs to define the intermediate level between village and district levels.

Application:

District: The state has several districts, including Bangalore Rural.

Intermediate Level: The Governor of Karnataka issues a public notification specifying that the Taluk (sub-district) level will be the intermediate level for the purposes of this Part.

Panchayat: Each Taluk will have its own Panchayat, acting as an institution of self-government for the rural areas within the Taluk.

Panchayat Area: The territorial area of each Taluk Panchayat will be defined accordingly.

Population: The population figures for each Taluk will be taken from the last published census data.

Village: Each village within the Taluk will be specified by the Governor through public notification.

Example 3:

Scenario: Grouping Villages for Administrative Efficiency

Context: In the state of Uttar Pradesh, several small villages are grouped together for better administrative efficiency.

Application:

District: The villages are located in the district of Varanasi.

Gram Sabha: A single Gram Sabha is formed consisting of persons registered in the electoral rolls of all the grouped villages.

Panchayat: A Panchayat is constituted under Article 243B to govern the grouped villages.

Panchayat Area: The combined territorial area of the grouped villages is defined as the Panchayat area.

Population: The population of the grouped villages is considered as per the last census data.

Village: The Governor of Uttar Pradesh issues a public notification specifying the group of villages as a single village for the purposes of this Part.

### **Article 243A: Gram Sabha.**

A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

### **Simplified act**

A Gram Sabha (village assembly) can have certain powers and responsibilities at the village level, as decided by the state government through laws.

Explanation using Example

Example 1:

Scenario: A village in Maharashtra is facing issues with water supply and sanitation. The Gram Sabha, which includes all the adult members of the village, convenes a meeting to discuss these issues.

Application of Article 243A: The Gram Sabha decides to use its powers as provided by the Maharashtra State Legislature to:

Approve a budget for the construction of new water tanks.

Form a committee to oversee the sanitation projects.

Allocate funds for maintenance of existing water supply infrastructure.

This decision-making process and the actions taken by the Gram Sabha are in accordance with the powers and functions provided to it by the state law under Article 243A.

Example 2:

Scenario: In a village in Tamil Nadu, there is a proposal to build a new school. The Gram Sabha is responsible for ensuring that the project meets the needs of the community.

Application of Article 243A: The Gram Sabha exercises its powers to:

Review and approve the location and design of the new school building.

Ensure that the construction does not harm the environment or displace any residents.

Monitor the progress of the construction to ensure it meets the agreed-upon standards and timelines.

By performing these functions, the Gram Sabha ensures that the project is beneficial to the village and aligns with the community's needs, as provided by the state law under Article 243A.

## **Article 243B: Constitution of Panchayats.**

(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

### **Simplified act**

(1) Every State must set up local government bodies called Panchayats at three levels: village, intermediate, and district, as per the rules in this section.

(2) However, if a State has a population of 2 million (20 lakhs) or less, it does not have to set up Panchayats at the intermediate level.

Explanation using Example

Example 1:

In the state of Maharashtra, the government decides to implement Article 243B of the Constitution of India. As per the provisions, they establish Panchayats at three levels: village, intermediate (block), and district.

Village Level: In a small village named "Ganeshpur," a Gram Panchayat is formed. The villagers elect representatives who will manage local issues such as water supply, sanitation, and primary education.

Intermediate Level: In the block of "Pune Rural," an intermediate Panchayat is constituted. This Panchayat oversees multiple villages, including Ganeshpur, and coordinates development projects like road construction and healthcare facilities.

District Level: At the district level, the "Pune Zilla Parishad" is established. This body supervises the intermediate Panchayats and ensures that larger-scale projects, such as district-wide agricultural programs and infrastructure development, are implemented effectively.

Example 2:

In the state of Sikkim, which has a population of less than twenty lakhs, the government decides to implement Article 243B. However, due to the population

clause in sub-section (2), they only establish Panchayats at the village and district levels, skipping the intermediate level.

Village Level: In a village called "Ravangla," a Gram Panchayat is formed. The elected members focus on local governance issues such as waste management, local markets, and community health programs.

District Level: The "South Sikkim Zilla Parishad" is constituted to manage and coordinate the activities of all the village Panchayats within the district. This body takes care of larger projects like district-wide tourism development and major infrastructure improvements.

In both examples, the establishment of Panchayats at different levels ensures that governance is decentralized and that local issues are addressed more effectively.

### **Article 243C: Composition of Panchayats.**

#### Composition of Panchayats

(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation -

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within -

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of -

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

### **Simplified act**

#### Composition of Panchayats

(1) According to this section, the State Legislature can make laws about how Panchayats are formed:

Provided that the number of seats in a Panchayat should be proportional to the population of the area it covers, as much as possible, across the whole State.

(2) All seats in a Panchayat must be filled by people who are directly elected from different areas within the Panchayat. Each Panchayat area should be divided into sections so that the number of seats in each section is proportional to its population, as much as possible, throughout the Panchayat area.

(3) The State Legislature can make laws to include the following representatives:

- (a) Chairpersons of village-level Panchayats in the intermediate-level Panchayats, or in district-level Panchayats if there are no intermediate-level Panchayats in the State;
- (b) Chairpersons of intermediate-level Panchayats in the district-level Panchayats;
- (c) Members of the House of the People and the State Legislative Assembly who represent areas that include a Panchayat, in Panchayats other than at the village level;
- (d) Members of the Council of States and the State Legislative Council, if they are registered voters in:
  - (i) an intermediate-level Panchayat area, in the intermediate-level Panchayat;
  - (ii) a district-level Panchayat area, in the district-level Panchayat.
- (4) The Chairperson and other members of a Panchayat, whether elected directly or not, have the right to vote in Panchayat meetings.
- (5) The Chairperson of:
  - (a) a village-level Panchayat will be elected in a way decided by State law; and
  - (b) an intermediate-level or district-level Panchayat will be elected by and from the elected members of that Panchayat.

#### Explanation using Example

##### Example 1:

Scenario: A village in Maharashtra is preparing for Panchayat elections.

##### Application of the Act:

**Composition of Panchayats:** The Maharashtra State Legislature has passed a law detailing how the Panchayats will be composed. According to this law, the ratio between the population of the village and the number of seats in the Panchayat must be consistent across the state.

**Direct Elections:** All seats in the village Panchayat will be filled by direct elections. The village is divided into several territorial constituencies, ensuring that each constituency has a similar population-to-seat ratio.

**Representation:** The Chairperson of the village Panchayat will have a seat in the intermediate level Panchayat. Additionally, members of the Legislative Assembly representing the village will also have representation in the intermediate level Panchayat.

**Voting Rights:** The Chairperson and other members of the Panchayat, whether elected directly or not, have the right to vote in Panchayat meetings.

**Election of Chairperson:** The Chairperson of the village Panchayat will be elected as per the method prescribed by the Maharashtra State Legislature.

**Example 2:**

**Scenario:** A district in Karnataka is organizing elections for its district-level Panchayat.

**Application of the Act:**

**Composition of Panchayats:** The Karnataka State Legislature has enacted a law specifying the composition of Panchayats. The law ensures that the ratio between the population of the district and the number of seats in the district Panchayat is uniform across the state.

**Direct Elections:** All seats in the district Panchayat will be filled by direct elections. The district is divided into several territorial constituencies, with each constituency having a similar population-to-seat ratio.

**Representation:** The Chairpersons of the intermediate level Panchayats within the district will have seats in the district-level Panchayat. Additionally, members of the Legislative Assembly and the House of the People representing constituencies within the district will also have representation in the district-level Panchayat.

**Voting Rights:** The Chairperson and other members of the district Panchayat, whether elected directly or not, have the right to vote in Panchayat meetings.

**Election of Chairperson:** The Chairperson of the district Panchayat will be elected by and from amongst the elected members of the district Panchayat.

**Example 3:**

**Scenario:** A village in Uttar Pradesh is holding elections for its village-level Panchayat.

**Application of the Act:**



**Composition of Panchayats:** The Uttar Pradesh State Legislature has made provisions regarding the composition of Panchayats. The law ensures that the ratio between the population of the village and the number of seats in the Panchayat is consistent throughout the state.

**Direct Elections:** All seats in the village Panchayat will be filled by direct elections. The village is divided into several territorial constituencies, ensuring that each constituency has a similar population-to-seat ratio.

**Representation:** The Chairperson of the village Panchayat will have a seat in the intermediate level Panchayat. Additionally, members of the Legislative Assembly representing the village will also have representation in the intermediate level Panchayat.

**Voting Rights:** The Chairperson and other members of the Panchayat, whether elected directly or not, have the right to vote in Panchayat meetings.

**Election of Chairperson:** The Chairperson of the village Panchayat will be elected as per the method prescribed by the Uttar Pradesh State Legislature.

#### **Article 243D: Reservation of seats.**

##### **Reservation of Seats in Panchayats**

(1) Seats shall be reserved for:

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be

reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

### **Simplified act**

#### Reservation of Seats in Panchayats

(1) Seats will be reserved for:

(a) Scheduled Castes; and

(b) Scheduled Tribes,

in every Panchayat. The number of reserved seats will be in proportion to the population of Scheduled Castes and Scheduled Tribes in that Panchayat area. These reserved seats can be rotated among different constituencies in the Panchayat.

(2) At least one-third of the seats reserved under point (1) will be reserved for women from Scheduled Castes or Scheduled Tribes.

(3) At least one-third of all seats to be filled by direct election in every Panchayat will be reserved for women. This includes the seats reserved for women from Scheduled Castes and Scheduled Tribes. These reserved seats can also be rotated among different constituencies in the Panchayat.

(4) The positions of Chairpersons in the Panchayats at the village or any other level will be reserved for Scheduled Castes, Scheduled Tribes, and women as decided by the State Legislature:

Provided that the number of Chairperson positions reserved for Scheduled Castes and Scheduled Tribes will be in proportion to their population in the State:

Provided further that at least one-third of the Chairperson positions at each level will be reserved for women:

Provided also that these reserved Chairperson positions will be rotated among different Panchayats at each level.

(5) The reservation of seats under points (1) and (2) and the reservation of Chairperson positions (except for women) under point (4) will end after the period specified in article 334.

(6) This part does not stop the State Legislature from making provisions for reserving seats or Chairperson positions in Panchayats for backward classes of citizens.

Explanation using Example

Example 1:

In a village called Ramapur, the total population is 10,000. Out of this, 2,000 people belong to the Scheduled Castes (SC) and 1,000 people belong to the Scheduled Tribes (ST). The Panchayat has 20 seats to be filled by direct election.

According to Article 243D(1), seats must be reserved for SC and ST in proportion to their population. Therefore, 4 seats (20% of 20) will be reserved for SC and 2 seats (10% of 20) will be reserved for ST.

According to Article 243D(2), at least one-third of the reserved seats for SC and ST must be reserved for women. Therefore, at least 2 seats for SC and 1 seat for ST must be reserved for women.

According to Article 243D(3), at least one-third of the total seats (including the reserved seats for SC and ST women) must be reserved for women. Therefore, at least 7 seats (one-third of 20) must be reserved for women.

#### Example 2:

In the state of Madhya Pradesh, there are 100 Panchayats at the village level. The total population of the state is 50 million, out of which 10 million belong to the Scheduled Castes and 5 million belong to the Scheduled Tribes.

According to Article 243D(4), the offices of the Chairpersons in the Panchayats must be reserved for SC, ST, and women in proportion to their population. Therefore, 20 Chairperson offices (20% of 100) will be reserved for SC and 10 Chairperson offices (10% of 100) will be reserved for ST.

Additionally, at least one-third of the total number of Chairperson offices must be reserved for women. Therefore, at least 34 Chairperson offices (one-third of 100) must be reserved for women.

These reserved offices will be allotted by rotation to different Panchayats at each level to ensure fair representation.

#### Example 3:

In a district called Sundarnagar, the Panchayat elections are approaching. The district has a total population of 200,000, with 40,000 belonging to the Scheduled Castes and 20,000 belonging to the Scheduled Tribes. The Panchayat has 50 seats to be filled by direct election.

According to Article 243D(1), seats must be reserved for SC and ST in proportion to their population. Therefore, 10 seats (20% of 50) will be reserved for SC and 5 seats (10% of 50) will be reserved for ST.

According to Article 243D(2), at least one-third of the reserved seats for SC and ST must be reserved for women. Therefore, at least 3 seats for SC and 2 seats for ST must be reserved for women.

According to Article 243D(3), at least one-third of the total seats (including the reserved seats for SC and ST women) must be reserved for women. Therefore, at least 17 seats (one-third of 50) must be reserved for women.

According to Article 243D(4), the offices of the Chairpersons in the Panchayats must be reserved for SC, ST, and women in proportion to their population. Therefore, 10 Chairperson offices (20% of 50) will be reserved for SC and 5 Chairperson offices (10% of 50) will be reserved for ST. Additionally, at least one-third of the total number of Chairperson offices must be reserved for women. Therefore, at least 17 Chairperson offices (one-third of 50) must be reserved for women.

### **Article 243E: Duration of Panchayats, etc.**

#### Duration of Panchayats

(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed -

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

### **Simplified act**

#### Duration of Panchayats

(1) Every Panchayat will last for five years from the date of its first meeting, unless it is dissolved earlier by a law.

(2) If a law is changed, it cannot dissolve a Panchayat that is already functioning until the five-year period mentioned in point (1) is over.

(3) Elections to form a new Panchayat must be completed:

(a) before the current Panchayat's five-year term ends;

(b) within six months after a Panchayat is dissolved:

However, if the remaining time of the dissolved Panchayat's term is less than six months, then it is not necessary to hold an election for that short period.

(4) If a Panchayat is dissolved before its five-year term ends, the new Panchayat formed will only serve for the remaining time of the original five-year term.

Explanation using Example

Example 1:

In the village of Rampur, the Panchayat was elected and held its first meeting on January 1, 2020. According to Article 243E, this Panchayat will continue to function until January 1, 2025, unless it is dissolved earlier by a law. As the five-year term approaches its end, the state government must ensure that elections for the new Panchayat are completed before January 1, 2025, to avoid any gap in governance.

Example 2:

In the village of Lakshmipur, the Panchayat was dissolved on March 1, 2023, due to internal conflicts and mismanagement. According to Article 243E, elections must be held within six months of this dissolution, i.e., by September 1, 2023. However, if the remaining term of the dissolved Panchayat was less than six months, say it was supposed to end on June 1, 2023, then it is not necessary to hold elections for such a short period. Instead, the new Panchayat elections will be scheduled as per the regular five-year cycle.

Example 3:

In the town of Bhavnagar, a new law was passed on April 1, 2024, which changes the structure of Panchayats. However, the current Panchayat, which started its term on January 1, 2020, will not be dissolved by this new law. According to Article 243E, the current Panchayat will continue to function until January 1, 2025, and the new law will only apply to future Panchayats.

Example 4:

In the village of Suryapur, the Panchayat was dissolved on July 1, 2022, and a new Panchayat was elected and constituted on September 1, 2022. According to Article 243E, this newly constituted Panchayat will only serve the remaining term of the dissolved Panchayat, which was supposed to end on January 1, 2025. Therefore, the new Panchayat will also serve until January 1, 2025, and not a full five-year term.

### **Article 243F: Disqualifications for membership.**

#### Disqualification for Membership of a Panchayat

(1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat:

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

### **Simplified act**

#### Disqualification for Membership of a Panchayat

(1) A person cannot be chosen as, or be, a member of a Panchayat if:

(a) They are disqualified by any current law related to elections for the State Legislature:

However, a person cannot be disqualified just because they are under twenty-five years old, as long as they are at least twenty-one years old;

(b) They are disqualified by any law made by the State Legislature.

(2) If there is any doubt about whether a member of a Panchayat has become disqualified as mentioned in point (1), the question will be decided by an authority and in a manner specified by the State Legislature through law.

## Explanation using Example

### Example 1:

Ravi, a 23-year-old resident of a village in Maharashtra, decides to run for the position of a Panchayat member. However, during the verification process, it is discovered that Ravi has been convicted of a crime and is currently serving a sentence. According to Article 243F(1)(a) of the Constitution of India, Ravi is disqualified from being chosen as a member of the Panchayat because he is disqualified under the law for the purposes of elections to the Legislature of the State. Despite being over 21 years old, his criminal conviction disqualifies him from holding the position.

### Example 2:

Sita, a 30-year-old woman from a village in Tamil Nadu, is currently a member of the Panchayat. Recently, a question arises regarding her eligibility because it is alleged that she holds an office of profit under the government, which could be a disqualification under the state law. According to Article 243F(2), this question about Sita's disqualification will be referred to the designated authority as specified by the law of Tamil Nadu. The authority will then investigate and decide whether Sita should be disqualified from her position in the Panchayat.

### **Article 243G: Powers, authority and responsibilities of Panchayats.**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

### **Simplified act**

As long as it follows the rules of the Constitution, the State Legislature can create laws that give Panchayats (local government bodies) the necessary



powers and authority to operate as self-governing institutions. These laws can include rules for giving powers and responsibilities to Panchayats at the right level, under certain conditions, for:

- (a) making plans for economic development and social justice;
- (b) carrying out programs for economic development and social justice that are assigned to them, including those related to the topics listed in the Eleventh Schedule.

#### Explanation using Example

##### Example 1:

Scenario: A village in Maharashtra is facing issues with water scarcity and poor sanitation.

Application of Article 243G: The State Legislature of Maharashtra passes a law empowering the local Panchayat to address these issues. The Panchayat is given the authority to prepare and implement plans for improving water supply and sanitation facilities.

##### Actions Taken:

The Panchayat prepares a plan to construct new wells and install water purification systems.

They also plan to build proper drainage systems and public toilets to improve sanitation.

The Panchayat collaborates with local NGOs and government agencies to secure funding and technical support.

They implement the schemes, ensuring that the village has access to clean water and better sanitation facilities.

Outcome: The village sees a significant improvement in water availability and sanitation, leading to better health and hygiene for the residents.

##### Example 2:

Scenario: A rural area in Karnataka is struggling with high unemployment rates and lack of educational facilities.

Application of Article 243G: The State Legislature of Karnataka enacts a law that grants the local Panchayat the power to create and execute plans for economic development and social justice.

Actions Taken:

The Panchayat develops a plan to set up vocational training centers to provide skill development for the youth.

They also plan to establish a community school to improve access to education.

The Panchayat seeks assistance from state government schemes and private organizations to fund these initiatives.

They implement the vocational training programs and build the community school.

Outcome: The vocational training centers help reduce unemployment by equipping the youth with marketable skills, and the new school provides better educational opportunities, contributing to the overall development of the area.

#### **Article 243H: Powers to impose taxes by, and Funds of, the Panchayats.**

The Legislature of a State may, by law,

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits ;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits ;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State ; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.

#### **Simplified act**

The State Legislature can make laws to:

(a) allow a Panchayat (local government) to charge, collect, and use certain taxes, duties, tolls, and fees, following specific procedures and within set limits;

(b) give a Panchayat the right to use certain taxes, duties, tolls, and fees that the State Government collects, for specific purposes and under certain conditions and limits;

(c) provide financial support to the Panchayats from the State's main fund;

(d) set up special funds where all money received by or for the Panchayats is deposited, and outline how this money can be withdrawn, as specified in the law.

### Explanation using Example

#### Example 1:

Scenario: A village Panchayat in Maharashtra wants to improve the local infrastructure by constructing new roads and maintaining existing ones.

#### Application of Article 243H:

Clause (a): The Maharashtra State Legislature passes a law authorizing the village Panchayat to levy a small road maintenance tax on all households in the village. The Panchayat collects this tax and uses the funds specifically for road construction and maintenance.

Clause (b): The State Government assigns a portion of the vehicle registration fees collected in the district to the village Panchayat. This additional revenue helps the Panchayat fund larger infrastructure projects.

Clause (c): The State Government provides a grant-in-aid from the Consolidated Fund of Maharashtra to the village Panchayat to support its road maintenance projects.

Clause (d): The Panchayat sets up a dedicated Road Maintenance Fund where all the collected taxes, assigned fees, and grants are deposited. The Panchayat can withdraw money from this fund as needed for road-related expenses.

#### Example 2:

Scenario: A Panchayat in Kerala wants to improve the local water supply system to ensure clean drinking water for all residents.

#### Application of Article 243H:

Clause (a): The Kerala State Legislature enacts a law allowing the Panchayat to levy a water usage fee on all households and businesses. The Panchayat

collects this fee to fund the maintenance and expansion of the water supply system.

Clause (b): The State Government assigns a portion of the water tax collected at the state level to the Panchayat. This helps the Panchayat cover the costs of upgrading the water infrastructure.

Clause (c): The State Government provides a grant-in-aid from the Consolidated Fund of Kerala to the Panchayat to support its water supply improvement projects.

Clause (d): The Panchayat establishes a Water Supply Fund where all collected fees, assigned taxes, and grants are deposited. The Panchayat can withdraw money from this fund to pay for water supply system improvements and maintenance.

Example 3:

Scenario: A Panchayat in Tamil Nadu wants to organize a local fair to promote tourism and local businesses.

Application of Article 243H:

Clause (a): The Tamil Nadu State Legislature authorizes the Panchayat to levy a small entry fee for the fair. The Panchayat collects this fee to cover the costs of organizing the event.

Clause (b): The State Government assigns a portion of the entertainment tax collected in the district to the Panchayat. This additional revenue helps the Panchayat fund the fair and other cultural events.

Clause (c): The State Government provides a grant-in-aid from the Consolidated Fund of Tamil Nadu to the Panchayat to support the fair and promote local tourism.

Clause (d): The Panchayat creates a Fair and Tourism Fund where all collected fees, assigned taxes, and grants are deposited. The Panchayat can withdraw money from this fund to pay for the fair and other tourism-related activities.

**Article 243I: Constitution of Finance Commission to review financial position.**

(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and

thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to -

(a) the principles which should govern -

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

### **Simplified act**

(1) The Governor of a State must, within one year from the start of the Constitution (Seventy-third Amendment) Act, 1992, and then every five years after that, set up a Finance Commission. This Commission will review the financial situation of the Panchayats (local government bodies) and give recommendations to the Governor about:

(a) The rules for:

- (i) How the money from taxes, duties, tolls, and fees collected by the State should be shared between the State and the Panchayats, and how this money should be divided among different levels of Panchayats;
  - (ii) Which taxes, duties, tolls, and fees can be given to or collected by the Panchayats;
  - (iii) The financial aid that should be given to the Panchayats from the State's main fund;
- (b) Steps needed to improve the financial health of the Panchayats;
- (c) Any other financial matters related to the Panchayats that the Governor thinks are important.
- (2) The State Legislature can make laws about who will be on the Commission, what qualifications they need, and how they will be chosen.
- (3) The Commission will decide how it will operate and will have the powers given to it by the State Legislature to do its job.
- (4) The Governor must present every recommendation made by the Commission, along with an explanation of what actions were taken based on those recommendations, to the State Legislature.

#### Explanation using Example

##### Example 1:

Scenario: The state of Maharashtra has just completed its five-year term since the last Finance Commission was constituted.

##### Application:

Constitution of Finance Commission: The Governor of Maharashtra constitutes a new Finance Commission to review the financial position of the Panchayats.

##### Review and Recommendations:

Distribution of Taxes: The Commission reviews the net proceeds of taxes, duties, tolls, and fees collected by the state and recommends how these should be distributed between the state and the Panchayats. For instance, it might suggest that 30% of the net proceeds from property taxes be allocated to Panchayats.

**Assignment of Taxes:** The Commission identifies specific taxes that can be directly collected by the Panchayats, such as local market fees or vehicle entry tolls.

**Grants-in-Aid:** The Commission recommends grants-in-aid from the state's Consolidated Fund to support Panchayats in underdeveloped areas.

**Improvement Measures:** The Commission suggests measures to improve the financial health of Panchayats, such as better tax collection methods or financial management training for Panchayat officials.

**Governor's Action:** The Governor presents the Commission's recommendations along with an explanatory memorandum to the Maharashtra State Legislature, detailing the actions taken based on these recommendations.

**Example 2:**

**Scenario:** The state of Karnataka is facing financial difficulties in its rural Panchayats, and the Governor decides to refer additional matters to the Finance Commission.

**Application:**

**Constitution of Finance Commission:** The Governor of Karnataka constitutes a Finance Commission within the stipulated time frame.

**Review and Recommendations:**

**Distribution of Taxes:** The Commission reviews the financial data and recommends that 25% of the net proceeds from state sales tax be allocated to Panchayats.

**Assignment of Taxes:** The Commission suggests that Panchayats be allowed to collect entertainment taxes from local fairs and festivals.

**Grants-in-Aid:** The Commission recommends specific grants-in-aid for Panchayats in drought-affected regions to support water conservation projects.

**Additional Measures:** The Governor refers additional matters to the Commission, such as the need for infrastructure development in rural areas. The Commission recommends measures like setting up a dedicated rural infrastructure fund.

Governor's Action: The Governor lays the Commission's recommendations and the explanatory memorandum before the Karnataka State Legislature, explaining the steps taken to implement these recommendations.

Example 3:

Scenario: The state of Tamil Nadu is preparing to constitute its Finance Commission for the first time after the Seventy-third Amendment.

Application:

Constitution of Finance Commission: The Governor of Tamil Nadu constitutes the Finance Commission within one year of the commencement of the Seventy-third Amendment.

Review and Recommendations:

Distribution of Taxes: The Commission recommends that 20% of the net proceeds from state excise duties be shared with Panchayats.

Assignment of Taxes: The Commission identifies local taxes, such as agricultural produce market fees, that can be collected by Panchayats.

Grants-in-Aid: The Commission suggests grants-in-aid for Panchayats to improve sanitation and public health facilities.

Improvement Measures: The Commission recommends capacity-building programs for Panchayat members to enhance their financial management skills.

Governor's Action: The Governor presents the Commission's recommendations and the explanatory memorandum to the Tamil Nadu State Legislature, outlining the actions taken based on these recommendations.

### **Article 243J: Audit of accounts of Panchayats.**

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

### **Simplified act**

The state government can create laws about how Panchayats (local government bodies) should keep their financial records and how these records should be checked for accuracy.



## Explanation using Example

### Example 1:

Scenario: In the state of Maharashtra, the state legislature passes a law requiring all Panchayats to maintain detailed financial records of their income and expenditures. This law also mandates that these accounts must be audited annually by a certified auditor appointed by the state government.

Application: The Panchayat in a small village called "Ganeshpur" receives funds from the state government for building a new community center. According to the law, the Panchayat must keep a detailed account of how these funds are spent, including receipts, invoices, and other financial documents. At the end of the financial year, a certified auditor visits Ganeshpur to review these accounts and ensure that the funds were used appropriately. The auditor's report is then submitted to the state government for review.

### Example 2:

Scenario: In the state of Karnataka, the state legislature enacts a law that requires Panchayats to use a standardized accounting software provided by the state government for maintaining their financial records. The law also stipulates that the accounts must be audited every six months.

Application: The Panchayat in the town of "Lakshmipur" receives funds for various development projects, including road construction and water supply improvements. The Panchayat uses the standardized accounting software to record all financial transactions related to these projects. Every six months, an auditor appointed by the state government reviews the accounts to ensure compliance with the law. The auditor finds that the Panchayat has properly documented all expenditures and that the funds have been used for their intended purposes. The audit report is then shared with the state government and made available to the public for transparency.

## **Article 243K: Elections to the Panchayats.**

Superintendence, Direction, and Control of Electoral Rolls and Elections to Panchayats

(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

### **Simplified act**

Supervision, Guidance, and Control of Voter Lists and Elections to Local Village Councils (Panchayats)

(1) The responsibility for overseeing, guiding, and controlling the creation of voter lists and the conduct of all elections for local village councils (Panchayats) is given to a State Election Commission. This commission will have a State Election Commissioner, who is appointed by the Governor.

(2) The rules about the job conditions and the length of service for the State Election Commissioner will be decided by the Governor, following any laws made by the State Legislature:

However, the State Election Commissioner can only be removed from office in the same way and for the same reasons as a High Court Judge. Also, the job conditions of the State Election Commissioner cannot be changed to his disadvantage after he has been appointed.

(3) When the State Election Commission asks for it, the Governor must provide the necessary staff to help the State Election Commission carry out its duties as mentioned in point (1).

(4) According to the rules of this Constitution, the State Legislature can make laws about all matters related to the elections for the local village councils (Panchayats).

Explanation using Example

Example 1:

Scenario: Appointment of State Election Commissioner

Mr. Sharma is a retired IAS officer with extensive experience in public administration. The Governor of Maharashtra appoints him as the State Election Commissioner to oversee the upcoming Panchayat elections. According to Article 243K, Mr. Sharma's role includes the superintendence, direction, and control of the preparation of electoral rolls and the conduct of elections. His tenure and conditions of service are determined by the Governor, but he cannot be removed from his position except under conditions similar to those for removing a High Court judge.

Example 2:

Scenario: Conduct of Panchayat Elections

The State Election Commission of Karnataka is preparing for the Panchayat elections. The Commission, led by the State Election Commissioner, requests additional staff from the Governor to ensure smooth conduct of the elections. The Governor provides the necessary personnel, including administrative officers and polling staff, to assist in the electoral process. The Commission oversees the preparation of electoral rolls, sets up polling stations, and ensures that the elections are conducted fairly and transparently.

Example 3:

Scenario: Legislative Provisions for Panchayat Elections

The Legislature of Tamil Nadu passes a new law detailing the procedures for Panchayat elections, including the nomination process, campaign regulations, and voting methods. This law is in accordance with the provisions of the Constitution and supports the State Election Commission in managing the elections. The law also includes measures to address electoral malpractices and ensure free and fair elections at the Panchayat level.

Example 4:

### Scenario: Removal of State Election Commissioner

Dr. Verma, the State Election Commissioner of Uttar Pradesh, is accused of serious misconduct. The allegations are investigated, and it is found that there is substantial evidence against him. Following the procedure similar to that for removing a High Court judge, the Governor initiates the process for Dr. Verma's removal. This ensures that the removal is not arbitrary and follows due process, maintaining the integrity of the office.

### Example 5:

### Scenario: Variation in Service Conditions

Ms. Rao is appointed as the State Election Commissioner of Gujarat. After her appointment, the state government proposes changes to the service conditions of the State Election Commissioner. However, according to Article 243K, any changes to her service conditions cannot be made to her disadvantage after her appointment. This provision ensures that Ms. Rao's terms of service remain fair and consistent throughout her tenure.

### **Article 243L: Application to Union territories.**

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

### **Simplified act**

The rules in this section apply to Union territories. When these rules mention the Governor of a State, it should be understood as referring to the Administrator of the Union territory, who is appointed under article 239. Similarly, when these rules mention the Legislature or the legislative Assembly of a State, it should be understood as referring to the Legislative Assembly of the Union territory, if it has one.

However, the President can issue a public notice to specify that these rules will apply to any Union territory or part of it, with certain exceptions and changes that he will mention in the notice.

#### Explanation using Example

##### Example 1:

Scenario: Establishment of Panchayats in the Union Territory of Delhi

Explanation: The Government of India decides to establish Panchayats in the Union Territory of Delhi. According to Article 243L, the provisions related to Panchayats that apply to states will also apply to Delhi. However, instead of the Governor, the Administrator (Lieutenant Governor) of Delhi will oversee the implementation. The Legislative Assembly of Delhi will have the same powers and responsibilities as a state legislature in this context.

Practical Application: The Lieutenant Governor of Delhi issues a notification to establish Panchayats in rural areas of Delhi. The Legislative Assembly of Delhi passes laws regarding the powers, functions, and elections of these Panchayats, similar to how a state legislature would do for Panchayats in a state.

##### Example 2:

Scenario: Modification of Panchayat Provisions in the Union Territory of Andaman and Nicobar Islands

Explanation: The President of India decides that certain provisions of Part IX of the Constitution, which deals with Panchayats, need to be modified for the Union Territory of Andaman and Nicobar Islands. According to Article 243L, the President can issue a public notification specifying these modifications.

Practical Application: The President issues a notification stating that the Panchayats in Andaman and Nicobar Islands will have a different structure compared to those in states. For instance, the notification might specify that the Panchayats will have fewer members due to the smaller population of the islands. The Administrator of Andaman and Nicobar Islands will implement these modified provisions, and the local legislative body, if any, will follow these guidelines.

**Article 243M: Part not to apply to certain areas.**

(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to -

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part -

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(3A) Nothing in article 243D, relating to reservation of seats for the Scheduled Castes, shall apply to the State of Arunachal Pradesh.

(4) Notwithstanding anything in this Constitution, -

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

### **Simplified act**

(1) This section does not apply to the Scheduled Areas mentioned in clause (1) and the tribal areas mentioned in clause (2) of article 244.

(2) This section does not apply to -

(a) the States of Nagaland, Meghalaya, and Mizoram;

(b) the hill areas in the State of Manipur where District Councils exist under current laws.

(3) This section -

(a) about Panchayats at the district level does not apply to the hill areas of the District of Darjeeling in the State of West Bengal where the Darjeeling Gorkha Hill Council exists under current laws;

(b) does not change the functions and powers of the Darjeeling Gorkha Hill Council established under such laws.

(3A) The rule about reserving seats for Scheduled Castes in article 243D does not apply to the State of Arunachal Pradesh.

(4) Despite anything in this Constitution, -

(a) the Legislature of a State mentioned in sub-clause (a) of clause (2) can extend this section to that State, except the areas mentioned in clause (1), if the Legislative Assembly of that State passes a resolution with a majority of the total membership and at least two-thirds of the members present and voting;

(b) Parliament can extend the rules of this section to the Scheduled Areas and tribal areas mentioned in clause (1) with certain exceptions and changes as specified in the law, and this will not be considered an amendment of the Constitution under article 368.

Explanation using Example

Example 1:

Ravi is a resident of a tribal area in the state of Jharkhand, which is classified as a Scheduled Area under Article 244 of the Indian Constitution. He is curious about the implementation of Panchayati Raj institutions in his area. Upon researching, Ravi learns that Article 243M(1) of the Constitution states that the provisions related to Panchayats do not apply to Scheduled Areas. This means that the local governance in his area is not governed by the Panchayati Raj system but by other laws specifically designed for tribal areas.

Example 2:

Meghna lives in the state of Nagaland and is interested in participating in local governance. She discovers that the Panchayati Raj system, which is prevalent in many parts of India, does not apply to her state. According to Article

243M(2)(a), the states of Nagaland, Meghalaya, and Mizoram are exempt from the provisions of Part IX of the Constitution, which deals with Panchayats. Instead, local governance in these states is managed through traditional tribal councils and other local bodies as per their customary laws.

#### Example 3:

In the hill areas of Manipur, where District Councils exist, residents like Anil are governed by these councils rather than the Panchayati Raj system. Article 243M(2)(b) specifies that the provisions related to Panchayats do not apply to these hill areas. Anil's local governance is thus managed by the District Councils established under specific laws, ensuring that the unique needs and customs of the hill areas are respected.

#### Example 4:

Priya, who lives in the Darjeeling district of West Bengal, is aware that her district has a unique governance structure due to the presence of the Darjeeling Gorkha Hill Council. Article 243M(3)(a) clarifies that the provisions related to Panchayats at the district level do not apply to the hill areas of Darjeeling. This means that the Darjeeling Gorkha Hill Council has its own set of functions and powers, as outlined in the laws governing it, ensuring that local governance is tailored to the specific needs of the region.

#### Example 5:

Arun, a resident of Arunachal Pradesh, is interested in the reservation of seats for Scheduled Castes in local governance. He finds out that Article 243M(3A) states that the provisions related to the reservation of seats for Scheduled Castes in Panchayats do not apply to Arunachal Pradesh. This means that the state has its own mechanisms and policies for ensuring representation and participation of various communities in local governance, separate from the general provisions applicable in other states.

#### Example 6:

The legislative assembly of Mizoram decides to extend the provisions of Part IX of the Constitution to certain areas of the state. According to Article 243M(4)(a), this can be done if the legislative assembly passes a resolution with a majority of the total membership and at least two-thirds of the members present and voting. This allows the state to adopt the Panchayati Raj system in specific areas while respecting the unique governance needs of other regions.



### Example 7:

The Parliament of India decides to extend the provisions of Part IX to a Scheduled Area in Odisha. As per Article 243M(4)(b), Parliament can do this by passing a law that specifies the exceptions and modifications applicable to the Scheduled Area. This ensures that the Panchayati Raj system can be implemented in a way that respects the unique cultural and administrative needs of the tribal population in that area.

### **Article 243N: Continuance of existing laws and Panchayats.**

Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

### **Simplified act**

Despite anything mentioned in this Part, any existing law about Panchayats (local government bodies) in a State before the Constitution (Seventy-third Amendment) Act, 1992, that conflicts with this Part, will remain valid until it is changed or canceled by a proper legislative body or authority, or until one year passes from the start of this Amendment, whichever happens first.

However, all Panchayats that were in place before this Amendment started will continue to exist until their term ends, unless they are dissolved earlier by a resolution passed by the State's Legislative Assembly or, if the State has a Legislative Council, by both Houses of the State Legislature.

### Explanation using Example

#### Example 1:

In the state of Maharashtra, before the Constitution (Seventy-third Amendment) Act, 1992, there was a law that allowed Panchayat members to be

elected for a term of 4 years. After the amendment, the new law mandates a 5-year term for Panchayat members. According to Article 243N, the old law allowing a 4-year term will continue to be in force until it is either amended by the Maharashtra State Legislature or until one year has passed since the commencement of the amendment, whichever is earlier. However, if the current Panchayat's term is still ongoing, they will continue to serve until their term expires or they are dissolved by a resolution passed by the Maharashtra Legislative Assembly.

Example 2:

In the state of Tamil Nadu, there was a law in place before the Constitution (Seventy-third Amendment) Act, 1992, that required Panchayat meetings to be held every six months. The new amendment requires Panchayat meetings to be held every three months. According to Article 243N, the old law requiring six-monthly meetings will remain in effect until it is amended or repealed by the Tamil Nadu State Legislature or until one year has passed since the commencement of the amendment, whichever is earlier. If the current Panchayat was elected under the old law, they will continue to follow the six-month meeting schedule until their term ends or they are dissolved by a resolution passed by the Tamil Nadu Legislative Assembly.

**Article 243O: Bar to interference by courts in electoral matters.**

Notwithstanding anything in this Constitution, -

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

**Simplified act**

No matter what is written in this Constitution, -

(a) the legality of any law about setting the boundaries of voting areas or assigning seats to those areas, made or claimed to be made under article 243K, cannot be challenged in any court;

(b) no election to any local government body (Panchayat) can be questioned except through an election petition submitted to the proper authority in the way specified by state law.

Explanation using Example

Example 1:

Ravi, a resident of a village in Maharashtra, believes that the recent delimitation of constituencies in his district is unfair and biased. He decides to challenge this delimitation in the High Court. However, under Article 243O(a) of the Constitution of India, the court cannot entertain his petition questioning the validity of the delimitation of constituencies. Instead, Ravi must address his concerns through the appropriate legislative or administrative channels.

Example 2:

Sunita, a candidate in the Panchayat elections in Uttar Pradesh, loses the election by a narrow margin. She suspects that there was electoral malpractice and wants to challenge the election results in the local civil court. According to Article 243O(b) of the Constitution of India, Sunita cannot question the election results in any court. She must file an election petition with the designated authority as specified by the state legislature. This ensures that election disputes are handled through a specialized process rather than the general court system.

## **PART IXA: THE MUNICIPALITIES**

### **Article 243P: Definitions.**

#### Definitions

In this Part, unless the context otherwise requires, -

(a) "Committee" means a Committee constituted under article 243S;

(b) "district" means a district in a State;

(c) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) "Municipal area" means the territorial area of a Municipality as is notified by the Governor;

(e) "Municipality" means an institution of self-government constituted under article 243Q;

(f) "Panchayat" means a Panchayat constituted under article 243B;

(g) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

### **Simplified act**

#### Definitions

In this Part, unless the context otherwise requires, -

(a) "Committee" means a Committee set up under article 243S;

(b) "district" means a district in a State;

(c) "Metropolitan area" means an area with a population of one million or more, made up of one or more districts and including two or more Municipalities or Panchayats or other nearby areas, as specified by the Governor through a public notice to be a Metropolitan area for the purposes of this Part;

(d) "Municipal area" means the area of a Municipality as notified by the Governor;

(e) "Municipality" means a local self-government institution set up under article 243Q;

(f) "Panchayat" means a local self-government body set up under article 243B;

(g) "population" means the number of people as determined by the most recent census for which the relevant figures have been published.

#### Explanation using Example

##### Example 1:

##### Scenario: Establishing a Metropolitan Area

Context: The state of Maharashtra has several densely populated regions. The Governor of Maharashtra decides to designate a new metropolitan area to improve urban planning and governance.

##### Application of Article 243P:

The Governor issues a public notification specifying that the combined areas of Mumbai, Thane, and Navi Mumbai, which have a total population exceeding ten lakhs, will be designated as a "Metropolitan area" under Article 243P(c).

This area will now be governed under the provisions applicable to metropolitan areas, ensuring better coordination among the municipalities and panchayats within this region.

Example 2:

Scenario: Formation of a Municipality

Context: A rapidly growing town in Karnataka, with a population of 50,000, needs better local governance to manage its development and public services.

Application of Article 243P:

The Governor of Karnataka issues a notification declaring the territorial area of the town as a "Municipal area" under Article 243P(d).

Subsequently, a "Municipality" is constituted under Article 243Q to serve as an institution of self-government for this area.

This Municipality will now be responsible for local administration, including sanitation, public health, and infrastructure development.

Example 3:

Scenario: Defining a District

Context: A new administrative district is created in the state of Tamil Nadu to improve governance and administrative efficiency.

Application of Article 243P:

The new district is officially recognized and defined as a "district" under Article 243P(b).

This definition ensures that the new district is included in the governance framework and receives appropriate administrative attention and resources.

Example 4:

Scenario: Establishing a Committee

Context: To address urban issues in a large city, the state government of Gujarat decides to form a special committee.

Application of Article 243P:

A "Committee" is constituted under Article 243S to focus on urban planning, infrastructure development, and public services in the city.

This Committee will work alongside the Municipality to ensure coordinated efforts in addressing the city's needs.

Example 5:

Scenario: Utilizing Census Data

Context: The state of West Bengal is planning to allocate resources for urban development based on population data.

Application of Article 243P:

The state government refers to the "population" figures as ascertained at the last preceding census, as defined under Article 243P(g).

These figures are used to determine the allocation of funds and resources to various municipalities and panchayats within the state, ensuring equitable distribution based on population size.

### **Article 243Q: Constitution of Municipalities.**

(1) There shall be constituted in every State, -

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

### **Simplified act**

(1) Every State must set up the following types of local government bodies:

- (a) A Nagar Panchayat for areas that are changing from rural to urban.
- (b) A Municipal Council for smaller urban areas.
- (c) A Municipal Corporation for larger urban areas, in line with the rules in this section:

However, a Municipality might not be set up in an urban area or part of it if the Governor decides, based on the size of the area and the municipal services provided or planned by an industrial establishment, and other factors he considers important, and announces it publicly as an industrial township.

(2) In this section, "a transitional area", "a smaller urban area" or "a larger urban area" means an area that the Governor decides, based on factors like population size, population density, local government revenue, percentage of non-agricultural jobs, economic importance, or other factors he considers important, and announces publicly for the purposes of this section.

Explanation using Example

Example 1:

Scenario: Transition from Rural to Urban Area

Context: A village named "Shantipur" in the state of Maharashtra is experiencing rapid development. New roads, schools, and hospitals are being built, and many people are moving in from nearby rural areas. The population density is increasing, and more people are engaging in non-agricultural activities like small businesses and services.

Application of Article 243Q:

The state government of Maharashtra decides to classify Shantipur as a "transitional area" because it is moving from a rural to an urban setting.

As per Article 243Q(1)(a), the state government constitutes a Nagar Panchayat for Shantipur to manage the local administration and provide municipal services.

The Governor issues a public notification specifying Shantipur as a transitional area based on factors like population density, economic activities, and local revenue generation.

Example 2:

Scenario: Establishment of a Municipal Corporation

Context: The city of "Rajpur" in the state of Gujarat has grown significantly over the past decade. It now has a population of over 1 million people, with a high density of population and substantial revenue generated from local businesses and industries. The city has well-developed infrastructure and provides extensive municipal services.

Application of Article 243Q:

The state government of Gujarat decides to classify Rajpur as a "larger urban area" due to its significant population and economic importance.

As per Article 243Q(1)(c), the state government constitutes a Municipal Corporation for Rajpur to manage the complex administrative needs and provide advanced municipal services.

The Governor issues a public notification specifying Rajpur as a larger urban area, considering factors like population size, density, revenue generation, and economic activities.

Example 3:

Scenario: Industrial Township Exemption

Context: An industrial area named "TechnoPark" in the state of Karnataka is home to several large manufacturing plants and IT companies. The area is well-developed with its own infrastructure, including roads, water supply, and waste management systems, all provided by the industrial establishments.

Application of Article 243Q:



The state government of Karnataka considers whether to constitute a Municipality for TechnoPark.

Given that the industrial establishments already provide comprehensive municipal services, the Governor decides that it is not necessary to constitute a Municipality for this area.

As per the proviso in Article 243Q(1), the Governor issues a public notification specifying TechnoPark as an industrial township, exempting it from the requirement to have a Municipality.

### **Article 243R: Composition of Municipalities.**

#### Municipality Seats and Representation

(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide -

(a) for the representation in a Municipality of -

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

### **Simplified act**

#### Municipality Seats and Representation

(1) Except as mentioned in point (2), all the seats in a Municipality will be filled by people who are directly elected from different areas within the Municipality. Each Municipal area will be divided into sections called wards for this purpose.

(2) The State Legislature can make laws to:

(a) Include in a Municipality:

(i) people with special knowledge or experience in running Municipal affairs;

(ii) members of the House of the People (Lok Sabha) and the State Legislative Assembly who represent areas that are fully or partially within the Municipality;

(iii) members of the Council of States (Rajya Sabha) and the State Legislative Council who are registered voters in the Municipal area;

(iv) the Chairpersons of Committees formed under clause (5) of article 243S:

Provided that the people mentioned in point (i) will not have the right to vote in Municipality meetings;

(b) Decide how the Chairperson of a Municipality will be elected.

Explanation using Example

Example 1:

Scenario: Direct Election of Municipal Councilors

In the city of Jaipur, the municipal area is divided into several wards. Each ward represents a specific territorial constituency within the city. During municipal elections, residents of each ward vote directly to elect their municipal councilor. For instance, Ward 10 in Jaipur has 5,000 eligible voters who cast their votes to elect their representative to the Jaipur Municipal Corporation. The candidate with the highest number of votes in Ward 10 becomes the municipal councilor for that ward.

Example 2:

Scenario: Representation of Special Knowledge and Experience

The state legislature of Karnataka passes a law that allows for the inclusion of individuals with special knowledge or experience in municipal administration in the Bangalore Municipal Corporation. Dr. Meera, an urban planning expert,

is appointed to the corporation due to her extensive experience in city planning. However, as per the law, Dr. Meera does not have the right to vote in the meetings of the municipality. Her role is to provide expert advice and insights to help the elected councilors make informed decisions.

Example 3:

Scenario: Inclusion of State and National Legislators

In the city of Mumbai, the municipal area includes parts of the constituencies represented by both a Member of Parliament (MP) and a Member of the Legislative Assembly (MLA). Mr. Raj, the MP representing South Mumbai, and Ms. Priya, the MLA representing Colaba, are both included in the Mumbai Municipal Corporation. They participate in the meetings and discussions of the municipality, contributing their perspectives and ensuring coordination between different levels of government. However, their inclusion is based on the state law and they have the right to vote in the meetings.

Example 4:

Scenario: Election of the Chairperson of a Municipality

In the town of Mysore, the state legislature has established a specific procedure for electing the Chairperson of the Mysore Municipal Corporation. According to the law, the Chairperson is elected by the elected municipal councilors from among themselves. During the first meeting after the municipal elections, the councilors of Mysore Municipal Corporation vote to elect Mr. Arjun as the Chairperson. Mr. Arjun will now preside over the meetings and represent the municipality in official functions.

### **Article 243S: Constitution and composition of Wards Committees, etc.**

Wards Committees

(1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to:

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of:

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

### **Simplified act**

#### Wards Committees

(1) Wards Committees will be set up in areas of a Municipality that have a population of 300,000 or more. These committees will cover one or more wards.

(2) The State Legislature can make laws about:

(a) how the Wards Committee is made up and what areas it covers;

(b) how the seats in the Wards Committee will be filled.

(3) A member of the Municipality who represents a ward within the Wards Committee area will also be a member of that Wards Committee.

(4) If a Wards Committee covers:

(a) one ward, the member representing that ward in the Municipality will be the Chairperson of the Committee; or

(b) two or more wards, one of the members representing those wards in the Municipality, elected by the members of the Wards Committee, will be the Chairperson of the Committee.

(5) This article does not stop the State Legislature from creating other types of Committees in addition to the Wards Committees.

Explanation using Example

### Example 1:

Scenario: A city named "Metroville" has a population of 5 lakhs.

#### Application:

Constitution of Wards Committees: Since Metroville has a population of more than 3 lakhs, it is required to have Wards Committees.

Composition and Territorial Area: The State Legislature of Metroville decides that each Wards Committee will cover 5 wards.

Filling of Seats: The State Legislature also decides that each Wards Committee will have 10 members, with 2 members elected from each ward.

Membership: A councilor named Rajesh represents Ward 1 in the Municipality. He automatically becomes a member of the Wards Committee that includes Ward 1.

Chairperson: Since the Wards Committee covers 5 wards, the members of the Wards Committee elect Rajesh as the Chairperson.

### Example 2:

Scenario: A town named "Greenfield" has a population of 4 lakhs.

#### Application:

Constitution of Wards Committees: Greenfield, having a population of more than 3 lakhs, must have Wards Committees.

Composition and Territorial Area: The State Legislature decides that each Wards Committee will cover 3 wards.

Filling of Seats: The State Legislature decides that each Wards Committee will have 6 members, with 2 members elected from each ward.

Membership: A councilor named Priya represents Ward 2 in the Municipality. She becomes a member of the Wards Committee that includes Ward 2.

Chairperson: Since the Wards Committee covers 3 wards, the members of the Wards Committee elect Priya as the Chairperson.

### Example 3:

Scenario: A city named "Sunshine City" has a population of 10 lakhs.

Application:

Constitution of Wards Committees: Sunshine City, with a population exceeding 3 lakhs, is required to have Wards Committees.

Composition and Territorial Area: The State Legislature decides that each Wards Committee will cover 4 wards.

Filling of Seats: The State Legislature decides that each Wards Committee will have 8 members, with 2 members elected from each ward.

Membership: A councilor named Anil represents Ward 3 in the Municipality. He becomes a member of the Wards Committee that includes Ward 3.

Chairperson: Since the Wards Committee covers 4 wards, the members of the Wards Committee elect Anil as the Chairperson.

Example 4:

Scenario: A city named "Riverdale" has a population of 6 lakhs.

Application:

Constitution of Wards Committees: Riverdale, having a population of more than 3 lakhs, must have Wards Committees.

Composition and Territorial Area: The State Legislature decides that each Wards Committee will cover 2 wards.

Filling of Seats: The State Legislature decides that each Wards Committee will have 4 members, with 2 members elected from each ward.

Membership: A councilor named Meera represents Ward 4 in the Municipality. She becomes a member of the Wards Committee that includes Ward 4.

Chairperson: Since the Wards Committee covers 2 wards, the members of the Wards Committee elect Meera as the Chairperson.

Example 5:

Scenario: A city named "Hilltown" has a population of 8 lakhs.

Application:

Constitution of Wards Committees: Hilltown, with a population exceeding 3 lakhs, is required to have Wards Committees.

Composition and Territorial Area: The State Legislature decides that each Wards Committee will cover 6 wards.

Filling of Seats: The State Legislature decides that each Wards Committee will have 12 members, with 2 members elected from each ward.

Membership: A councilor named Vikram represents Ward 5 in the Municipality. He becomes a member of the Wards Committee that includes Ward 5.

Chairperson: Since the Wards Committee covers 6 wards, the members of the Wards Committee elect Vikram as the Chairperson.

### **Article 243T: Reservation of seats.**

#### Reservation of Seats in Municipalities

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

### **Simplified act**

#### Reservation of Seats in Municipalities

(1) Seats will be set aside for Scheduled Castes (SC) and Scheduled Tribes (ST) in every Municipality. The number of these reserved seats will be in proportion to the population of SCs and STs in that area compared to the total population. These reserved seats can be rotated among different areas within the Municipality.

(2) At least one-third of the seats reserved for SCs and STs must be reserved for women from these groups.

(3) At least one-third of all seats to be filled by direct election in every Municipality must be reserved for women. This includes the seats reserved for women from SCs and STs. These reserved seats for women can also be rotated among different areas within the Municipality.

(4) The positions of Chairpersons in the Municipalities will be reserved for SCs, STs, and women as decided by the State Legislature through laws.

(5) The reservation of seats for SCs and STs (mentioned in points 1 and 2) and the reservation of Chairperson positions (except for women) will end after the period specified in article 334.

(6) This part does not stop the State Legislature from making additional reservations for seats or Chairperson positions in favor of other backward classes of citizens.

#### Explanation using Example

##### Example 1:

In the city of Jaipur, the total population is 3,000,000. Out of this, the population of Scheduled Castes (SC) is 300,000 and the population of Scheduled Tribes (ST) is 150,000. The Municipality has 100 seats to be filled by direct election.

SC Reservation: The number of seats reserved for SCs would be calculated as follows: 
$$\left[ \text{SC Reserved Seats} \right] = \left( \frac{\text{SC}}{\text{Total Population}} \times \text{Total Seats} \right)$$



Population}}{\text{Total Population}} \right) \times \text{Total Seats} = \left( \frac{300,000}{3,000,000} \right) \times 100 = 10 \text{ seats} ]

ST Reservation: The number of seats reserved for STs would be calculated as follows: [ \text{ST Reserved Seats} = \left( \frac{\text{ST Population}}{\text{Total Population}} \right) \times \text{Total Seats} = \left( \frac{150,000}{3,000,000} \right) \times 100 = 5 \text{ seats} ]

Women Reservation within SC and ST: Out of the 10 seats reserved for SCs, at least one-third must be reserved for SC women: [ \text{SC Women Reserved Seats} = \left( \frac{1}{3} \right) \times 10 = 3.33 \approx 3 \text{ seats} ] Similarly, out of the 5 seats reserved for STs, at least one-third must be reserved for ST women: [ \text{ST Women Reserved Seats} = \left( \frac{1}{3} \right) \times 5 = 1.67 \approx 2 \text{ seats} ]

General Women Reservation: Not less than one-third of the total number of seats (including SC and ST women seats) must be reserved for women: [ \text{Total Women Reserved Seats} = \left( \frac{1}{3} \right) \times 100 = 33 \text{ seats} ]

#### Example 2:

In the town of Mysore, the total population is 1,000,000. Out of this, the population of Scheduled Castes (SC) is 100,000 and the population of Scheduled Tribes (ST) is 50,000. The Municipality has 50 seats to be filled by direct election.

SC Reservation: The number of seats reserved for SCs would be calculated as follows: [ \text{SC Reserved Seats} = \left( \frac{\text{SC Population}}{\text{Total Population}} \right) \times \text{Total Seats} = \left( \frac{100,000}{1,000,000} \right) \times 50 = 5 \text{ seats} ]

ST Reservation: The number of seats reserved for STs would be calculated as follows: [ \text{ST Reserved Seats} = \left( \frac{\text{ST Population}}{\text{Total Population}} \right) \times \text{Total Seats} = \left( \frac{50,000}{1,000,000} \right) \times 50 = 2.5 \approx 3 \text{ seats} ]

Women Reservation within SC and ST: Out of the 5 seats reserved for SCs, at least one-third must be reserved for SC women: [ \text{SC Women Reserved Seats} = \left( \frac{1}{3} \right) \times 5 = 1.67 \approx 2 \text{ seats} ] Similarly, out of the 3 seats reserved for STs, at least one-third must be reserved for ST women: [ \text{ST Women Reserved Seats} = \left( \frac{1}{3} \right) \times 3 = 1 \text{ seat} ]

General Women Reservation: Not less than one-third of the total number of seats (including SC and ST women seats) must be reserved for women: [  $\text{Total Women Reserved Seats} = \left( \frac{1}{3} \right) \times 50 = 16.67 \approx 17 \text{ seats} ]$

Chairperson Reservation: The offices of Chairpersons in the Municipality must also be reserved for SCs, STs, and women as per the state legislature's law. For instance, if there are 5 Chairperson positions, they might be allocated as follows:

1 for SC

1 for ST

1 for women

2 for general category

#### **Article 243U: Duration of Municipalities, etc.**

(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed, -

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

### **Simplified act**

(1) Every Municipality will last for five years from the date of its first meeting, unless it is dissolved earlier by law:

However, a Municipality must be given a fair chance to explain itself before it is dissolved.

(2) No changes to the law can cause a Municipality that is currently functioning to be dissolved before its five-year term is up, as mentioned in point (1).

(3) Elections to form a new Municipality must be completed:

(a) before the current Municipality's five-year term ends;

(b) within six months after a Municipality is dissolved:

However, if the remaining term of the dissolved Municipality is less than six months, it is not necessary to hold an election for that short period.

(4) If a new Municipality is formed after the previous one is dissolved before its five-year term ends, the new Municipality will only serve for the remaining time that the dissolved Municipality would have served.

Explanation using Example

Example 1:

Scenario: The City of Jaipur has a Municipality that was elected and held its first meeting on January 1, 2020.

Application of Article 243U:

Duration: The Municipality of Jaipur will continue to function until December 31, 2024, which is five years from the date of its first meeting.

Dissolution: If the state government decides to dissolve the Municipality before December 31, 2024, they must provide the Municipality with a reasonable opportunity to be heard before making the final decision.

Amendment Protection: If a new law is passed in 2022 that changes the structure or functioning of Municipalities, it cannot dissolve the Jaipur Municipality before December 31, 2024.

Elections: Elections to constitute a new Municipality must be completed before December 31, 2024. If the Jaipur Municipality is dissolved on June 30, 2023, new elections must be held within six months, i.e., by December 30, 2023. However, if the remaining period after dissolution is less than six months, no election is necessary.

Example 2:

Scenario: The Municipality of Pune was dissolved on March 1, 2023, and its original term was supposed to end on December 31, 2023.

Application of Article 243U:

Duration: The original term of the Pune Municipality was from January 1, 2019, to December 31, 2023.

Dissolution: The Municipality was dissolved on March 1, 2023, and the state government provided a reasonable opportunity for the Municipality to be heard before dissolution.

Elections: Since the Municipality was dissolved on March 1, 2023, new elections must be held within six months, i.e., by August 31, 2023.

Remainder Period: The newly constituted Municipality after the elections will only serve the remainder of the original term, which is until December 31, 2023.

No Election Needed: If the Municipality was dissolved on November 1, 2023, the remaining period would be less than six months, and no new election would be necessary. The state government could appoint an administrator to manage the Municipality until December 31, 2023.

### **Article 243V: Disqualifications for membership.**

(1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality -

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned;

(b) if he is so disqualified by or under any law made by the Legislature of the State. Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

### **Simplified act**

(1) A person cannot be chosen as, or remain, a member of a Municipality if:

(a) They are disqualified by any current law related to elections for the State Legislature;

(b) They are disqualified by any law made by the State Legislature. However, a person cannot be disqualified just because they are under twenty-five years old, as long as they are at least twenty-one years old;

(2) If there is a question about whether a Municipality member has become disqualified as mentioned in point (1), the question will be decided by an authority as specified by the State Legislature through law.

Explanation using Example

Example 1:

Ravi, a 30-year-old resident of Maharashtra, decides to run for a position in the local municipality. However, it is discovered that Ravi has been convicted of a crime and sentenced to imprisonment for two years. According to the laws governing elections to the State Legislature, anyone convicted of a crime and sentenced to imprisonment for two years or more is disqualified from contesting elections. Therefore, under Article 243V(1)(a) of the Constitution of India, Ravi is disqualified from being chosen as a member of the municipality.

Example 2:

Priya, a 23-year-old woman from Karnataka, wishes to contest in the upcoming municipal elections. The state law in Karnataka requires that candidates for municipal elections must be at least 25 years old. However, Article 243V(1)(b) of the Constitution of India provides that no person shall be disqualified on the ground that they are less than 25 years of age if they have attained the age of

21 years. Therefore, despite the state law, Priya is eligible to contest in the municipal elections as she is over 21 years old.

**Example 3:**

Sunil, a member of the municipal council in Tamil Nadu, is accused of holding an office of profit under the state government, which is a disqualification under the state law. A question arises as to whether Sunil has become subject to this disqualification. According to Article 243V(2) of the Constitution of India, this question must be referred to the authority designated by the state legislature. The state law provides that such matters are to be decided by the State Election Commission. Therefore, the question of Sunil's disqualification will be referred to and decided by the State Election Commission.

**Example 4:**

Anita, a 22-year-old resident of Gujarat, is elected as a member of the local municipality. Later, it is found that she has been declared insolvent by a court, which is a disqualification under the state law. According to Article 243V(1)(b) of the Constitution of India, Anita is disqualified from being a member of the municipality. The matter is referred to the designated authority as per the state law, which in this case is the State Election Commission, to confirm her disqualification and take necessary action.

**Article 243W: Powers, authority and responsibilities of Municipalities, etc.**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow -

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to -

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

### **Simplified act**

Subject to the rules of this Constitution, the State Legislature can make laws to give -

(a) Municipalities the necessary powers and authority to function as self-governing bodies. These laws can include rules for giving Municipalities specific powers and responsibilities, under certain conditions, to handle:

(i) creating plans for economic development and social justice;

(ii) performing tasks and implementing programs assigned to them, including those listed in the Twelfth Schedule;

(b) Committees the necessary powers and authority to fulfill their responsibilities, including those related to the matters listed in the Twelfth Schedule.

Explanation using Example

Example 1:

Scenario: A Municipality in Maharashtra is tasked with improving local infrastructure.

Application of Article 243W: The Maharashtra State Legislature passes a law granting the Municipality of Pune the authority to plan and execute infrastructure projects. This includes the construction of roads, bridges, and public parks. The law specifies that the Municipality must prepare detailed plans for these projects, ensuring they contribute to economic development and social justice. For instance, the Municipality might prioritize building roads in underdeveloped areas to improve connectivity and access to essential services.

Example 2:

Scenario: A Municipality in Tamil Nadu is responsible for implementing a waste management scheme.

Application of Article 243W: The Tamil Nadu State Legislature enacts a law empowering the Chennai Municipality to manage waste disposal and recycling

programs. The law outlines the Municipality's responsibilities, such as setting up waste collection points, organizing recycling drives, and educating the public about waste segregation. The Municipality is also tasked with preparing plans to ensure the scheme's success, such as collaborating with local businesses to reduce plastic use and promoting composting in residential areas. This aligns with the Twelfth Schedule's focus on public health and sanitation.

#### Example 3:

Scenario: A Committee in Karnataka is formed to oversee urban planning and development.

Application of Article 243W: The Karnataka State Legislature establishes a Committee within the Bengaluru Municipality to handle urban planning. The law grants the Committee the authority to draft and implement development plans, including zoning regulations, building codes, and land use policies. The Committee is responsible for ensuring that these plans promote sustainable development and address social equity. For example, the Committee might create affordable housing projects to accommodate low-income families, ensuring that urban growth benefits all residents.

#### Example 4:

Scenario: A Municipality in West Bengal is given the task of improving public health services.

Application of Article 243W: The West Bengal State Legislature passes a law that empowers the Kolkata Municipality to enhance public health services. The law mandates the Municipality to develop and implement health programs, such as vaccination drives, health camps, and sanitation initiatives. The Municipality is required to prepare comprehensive plans to address public health challenges, such as controlling the spread of infectious diseases and improving access to healthcare in underserved areas. This initiative supports the Twelfth Schedule's emphasis on public health and sanitation.

### **Article 243X: Power to impose taxes by, and Funds of, the Municipalities.**

The Legislature of a State

may, by law, -



- (a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits ;
  - (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits ;
  - (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State ; and
  - (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,
- as may be specified in the law.

### **Simplified act**

The Legislature of a State

can make laws to -

- (a) allow a Municipality to charge, collect, and use taxes, duties, tolls, and fees following certain procedures and within certain limits;
  - (b) give a Municipality the right to use taxes, duties, tolls, and fees that the State Government collects, for specific purposes and under certain conditions and limits;
  - (c) provide financial support to the Municipalities from the State's main fund; and
  - (d) set up special Funds where all money received by or for the Municipalities is deposited, and also set rules for taking money out of these Funds,
- as specified in the law.

Explanation using Example

Example 1:

Scenario: The Municipality of Jaipur wants to improve its public transportation system by introducing more buses and upgrading existing infrastructure.

Application of Article 243X:

Clause (a): The Rajasthan State Legislature passes a law authorizing the Jaipur Municipality to levy a special transportation tax on property owners within the city limits. This tax is collected by the municipality and used specifically for the transportation project.

Clause (b): The State Government of Rajasthan assigns a portion of the road tax collected by the state to the Jaipur Municipality. This assigned tax is used to maintain and upgrade the city's roads.

Clause (c): The State Government provides a grant-in-aid from the Consolidated Fund of the State to the Jaipur Municipality to support the transportation project.

Clause (d): A special fund is constituted for the Jaipur Municipality where all the money received from the transportation tax, assigned road tax, and state grants are credited. The municipality can withdraw money from this fund to finance the transportation project.

#### Example 2:

Scenario: The Municipality of Bengaluru wants to enhance its waste management system by setting up new recycling plants and improving garbage collection services.

#### Application of Article 243X:

Clause (a): The Karnataka State Legislature enacts a law allowing the Bengaluru Municipality to impose a waste management fee on households and commercial establishments. This fee is collected by the municipality and used for waste management purposes.

Clause (b): The State Government of Karnataka assigns a portion of the environmental tax collected by the state to the Bengaluru Municipality. This assigned tax is used to fund the new recycling plants.

Clause (c): The State Government provides a grant-in-aid from the Consolidated Fund of the State to the Bengaluru Municipality to support the waste management project.

Clause (d): A dedicated fund is created for the Bengaluru Municipality where all the money received from the waste management fee, assigned environmental tax, and state grants are credited. The municipality can withdraw money from this fund to finance the waste management project.

## **Article 243Y: Finance Commission.**

### Article 243-I - Finance Commission

(1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to:

(a) the principles which should govern:

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

### **Simplified act**

### Article 243-I - Finance Commission

(1) The Finance Commission set up under Article 243-I will also look at the financial situation of the Municipalities and give advice to the Governor on:

(a) the rules that should guide:

(i) how the money collected from taxes, duties, tolls, and fees by the State should be shared between the State and the Municipalities, and how this money should be divided among different levels of Municipalities;

(ii) which taxes, duties, tolls, and fees can be given to or used by the Municipalities;

(iii) the financial help (grants) that should be given to the Municipalities from the State's main fund;

(b) what steps are needed to improve the financial health of the Municipalities;

(c) any other issue the Governor asks the Finance Commission to look into for the good financial management of the Municipalities.

(2) The Governor must present every recommendation made by the Finance Commission, along with a detailed explanation of what actions have been taken based on those recommendations, to the State Legislature.

Explanation using Example

Example 1:

Scenario: A small town in Maharashtra is struggling to maintain its public parks and street lighting due to a lack of funds. The local municipality has been unable to generate sufficient revenue through local taxes and fees.

Application of Article 243Y:

Finance Commission Review: The Finance Commission constituted under Article 243-I reviews the financial position of the municipality.

Recommendations to the Governor:

Distribution of Taxes: The Commission recommends that a portion of the state-collected property tax be allocated to the municipality to help fund public services.

Assignment of Taxes: The Commission suggests that the municipality be allowed to collect a new local entertainment tax on movie theaters and amusement parks.

Grants-in-Aid: The Commission advises the Governor to provide a grant from the Consolidated Fund of the State to the municipality for immediate improvements in public infrastructure.

Legislative Action: The Governor presents these recommendations along with an explanatory memorandum to the State Legislature, which then decides on the implementation of these measures.

Example 2:

Scenario: A rapidly growing city in Karnataka is facing challenges in managing waste disposal and maintaining sanitation due to insufficient financial resources.

Application of Article 243Y:

Finance Commission Review: The Finance Commission constituted under Article 243-I assesses the financial needs of the city's municipality.

Recommendations to the Governor:

Distribution of Taxes: The Commission recommends that a share of the state's goods and services tax (GST) revenue be allocated to the municipality to support waste management services.

Assignment of Taxes: The Commission proposes that the municipality be authorized to levy a sanitation fee on households and businesses.

Grants-in-Aid: The Commission suggests that the state provide a grant from the Consolidated Fund to help the municipality invest in modern waste disposal technology.

Improvement Measures: The Commission also recommends measures such as better financial management practices and capacity-building programs for municipal staff to improve the overall financial health of the municipality.

Legislative Action: The Governor submits these recommendations along with an explanatory memorandum to the State Legislature, which deliberates and decides on the appropriate actions to be taken.

### **Article 243Z: Audit of accounts of Municipalities.**

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

### **Simplified act**

The state government can create laws about how Municipalities should keep their financial records and how these records should be checked for accuracy.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra has passed a law requiring all Municipal Corporations within the state to maintain detailed financial records and submit them for annual audits.

Application: The Pune Municipal Corporation (PMC) is required to keep accurate records of all its financial transactions, including revenue from property taxes, water charges, and other municipal services. At the end of the financial year, PMC must submit these records to an independent auditor appointed by the state government. The auditor reviews the accounts to ensure there are no discrepancies or misuse of funds. If any irregularities are found, the auditor reports them to the state government, which may take corrective action.

Example 2:

Scenario: The State of Karnataka enacts a law mandating that all Urban Local Bodies (ULBs) must publish their audited financial statements on their official websites for public access.

Application: The Bangalore Municipal Corporation (BMC) maintains its financial records throughout the year, documenting all expenditures and income. After the financial year ends, an independent auditor reviews BMC's accounts and prepares an audit report. According to the new state law, BMC must upload the audited financial statements on its official website within three months of the audit's completion. This ensures transparency and allows citizens to review how municipal funds are being utilized, promoting accountability within the municipal administration.

### **Article 243ZA: Elections to the Municipalities.**

(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

### **Simplified act**

(1) The responsibility for overseeing, directing, and controlling the preparation of voter lists and the conduct of all elections for Municipalities is given to the State Election Commission mentioned in article 243K.

(2) As long as it follows the rules of this Constitution, the State Legislature can create laws about anything related to Municipal elections.

Explanation using Example

Example 1:

Scenario: The State Election Commission of Maharashtra is preparing for the upcoming municipal elections in Mumbai.

Application of Article 243ZA:

Superintendence, Direction, and Control: The State Election Commission of Maharashtra is responsible for overseeing the entire election process. This includes preparing the electoral rolls, ensuring fair conduct during the elections, and addressing any disputes or issues that arise.

Legislative Provisions: The Maharashtra State Legislature has enacted specific laws detailing the procedures for municipal elections. These laws cover aspects such as the nomination process for candidates, the voting process, and the counting of votes.

Outcome: The State Election Commission ensures that the electoral rolls are updated and accurate, and it conducts the elections in accordance with the laws set by the Maharashtra State Legislature. Any issues or disputes are handled by the Commission, ensuring a smooth and fair election process.

Example 2:

Scenario: A resident of Bengaluru, Karnataka, notices that their name is missing from the electoral roll for the upcoming municipal elections.

Application of Article 243ZA:

Superintendence, Direction, and Control: The resident contacts the Karnataka State Election Commission to report the issue. The Commission is responsible for addressing such concerns and ensuring that the electoral rolls are accurate.

Legislative Provisions: The Karnataka State Legislature has laws in place that outline the process for updating and correcting the electoral rolls. These laws provide a mechanism for residents to report discrepancies and have them corrected.

Outcome: The Karnataka State Election Commission reviews the resident's complaint and updates the electoral roll to include their name. The resident is

then able to participate in the municipal elections, ensuring their right to vote is protected.

### **Article 243ZB: Application to Union territories.**

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

### **Simplified act**

The rules in this section apply to Union territories.

When these rules mention the Governor of a State, it means the Administrator of the Union territory, who is appointed under article 239.

When these rules mention the Legislature or the Legislative Assembly of a State, it means the Legislative Assembly of the Union territory, if it has one.

Note: The President can announce changes to how these rules apply to any Union territory or part of it, by making a public announcement. The President can also specify any exceptions or changes in that announcement.

Explanation using Example

Example 1:

Scenario: Establishment of a Municipal Corporation in Delhi

Explanation: Delhi, being a Union territory with a Legislative Assembly, needs to establish a Municipal Corporation for local governance. According to Article 243ZB, the provisions that apply to states for setting up municipalities will also apply to Delhi. However, instead of the Governor, the Administrator (Lieutenant Governor) of Delhi will have the authority. The Legislative Assembly of Delhi will perform the functions that a State Legislature would typically perform.



Practical Application: The Delhi Legislative Assembly passes a law to create a new Municipal Corporation in a newly developed area. The Lieutenant Governor of Delhi oversees the implementation of this law, ensuring that the new Municipal Corporation is established and functions according to the provisions laid out in Part IXA of the Constitution.

Example 2:

Scenario: Modification of Municipal Governance Rules in Chandigarh

Explanation: Chandigarh is a Union territory without a Legislative Assembly. According to Article 243ZB, the President of India can issue a public notification to modify the application of Part IXA provisions to suit the specific needs of Chandigarh.

Practical Application: The President issues a notification stating that certain provisions of Part IXA, such as the method of electing municipal councilors, will be modified for Chandigarh. This notification specifies that instead of direct elections, councilors will be appointed by the Administrator based on recommendations from local community leaders. This modification is made to better address the unique administrative needs of Chandigarh.

**Article 243ZC: Part not to apply to certain areas.**

(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2) of article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

**Simplified act**

(1) The rules in this section do not apply to the Scheduled Areas mentioned in clause (1) and the tribal areas mentioned in clause (2) of article 244.

(2) The rules in this section do not change the duties and powers of the Darjeeling Gorkha Hill Council, which is set up by law for the hill areas of the Darjeeling district in West Bengal.

(3) Even though the Constitution says otherwise, Parliament can make a law to apply the rules in this section to the Scheduled Areas and tribal areas mentioned in clause (1). This law can include exceptions and changes, and it will not be considered an amendment to the Constitution under article 368.

Explanation using Example

Example 1:

Scenario: A municipal corporation in a Scheduled Area

Context: The government of a Scheduled Area in Jharkhand is considering forming a municipal corporation to improve local governance and infrastructure.

Application of Article 243ZC:

Clause (1): The provisions of Part IXA of the Constitution, which deals with municipalities, do not automatically apply to Scheduled Areas. Therefore, the Scheduled Area in Jharkhand cannot form a municipal corporation under the general provisions of Part IXA.

Clause (3): However, Parliament has the power to extend the provisions of Part IXA to Scheduled Areas with specific exceptions and modifications. If Parliament passes a law to this effect, the Scheduled Area in Jharkhand can then form a municipal corporation as per the modified provisions.

Outcome: Until Parliament enacts such a law, the Scheduled Area in Jharkhand will not have a municipal corporation governed by Part IXA of the Constitution.

Example 2:

Scenario: Functions of the Darjeeling Gorkha Hill Council

Context: The Darjeeling Gorkha Hill Council (DGHC) is responsible for the administration of the hill areas of the Darjeeling district in West Bengal. There is a proposal to establish a municipal body in the same area to manage urban development.

Application of Article 243ZC:

Clause (2): The functions and powers of the DGHC, as constituted under existing laws, are not affected by the provisions of Part IXA of the Constitution. This means that the DGHC will continue to operate with its current powers and functions, regardless of any new municipal body that might be proposed under Part IXA.

Outcome: The DGHC retains its authority and responsibilities, and any new municipal body established under Part IXA will not interfere with the DGHC's functions.

### Example 3:

Scenario: Extension of municipal provisions to a tribal area

Context: A tribal area in the state of Odisha is experiencing rapid urbanization, and there is a need for better urban governance. The state government is considering requesting Parliament to extend the provisions of Part IXA to this tribal area.

Application of Article 243ZC:

Clause (3): Parliament has the authority to extend the provisions of Part IXA to tribal areas with specific exceptions and modifications. The state government of Odisha can request Parliament to pass a law that applies the municipal provisions to the tribal area, tailored to its unique needs and circumstances.

Outcome: If Parliament enacts such a law, the tribal area in Odisha will have a municipal governance structure as per the modified provisions of Part IXA, improving urban management while respecting the area's unique characteristics.

### **Article 243ZD: Committee for district planning.**

District Planning Committee

(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to -

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan, -

(a) have regard to -

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

### **Simplified act**

#### District Planning Committee

(1) Every State must set up a District Planning Committee at the district level. This committee will combine the plans made by the Panchayats (village councils) and the Municipalities (town councils) in the district and create a draft development plan for the entire district.

(2) The State Legislature can make laws about -

(a) Who will be on the District Planning Committees;

(b) How the seats on these Committees will be filled:

At least 80% of the members must be elected from the elected members of the Panchayats and Municipalities in the district. The number of members from rural and urban areas should be in proportion to their populations;

(c) What tasks related to district planning these Committees will handle;

(d) How the Chairpersons of these Committees will be chosen.

(3) When making the draft development plan, every District Planning Committee must -

(a) Consider -

(i) Common interests between the Panchayats and Municipalities, such as land use planning, sharing water and other resources, developing infrastructure, and protecting the environment;

(ii) The amount and type of resources available, whether money or other resources;

(b) Consult with institutions and organizations specified by the Governor.

(4) The Chairperson of each District Planning Committee must send the recommended development plan to the State Government.

Explanation using Example

Example 1:

Scenario: A district in Maharashtra is planning to improve its infrastructure and environmental conservation.

Application:

Formation of Committee: The Maharashtra state government constitutes a District Planning Committee (DPC) for Pune district.

Composition: The committee is composed of members elected from the Panchayats and Municipalities in Pune, ensuring that at least four-fifths of the members are elected representatives. The ratio of members is based on the population of rural and urban areas in Pune.

Draft Development Plan: The DPC consolidates plans from various Panchayats and Municipalities, focusing on common interests like spatial planning, water resource sharing, and integrated infrastructure development.

Consultation: The DPC consults local institutions and organizations specified by the Governor to gather insights and resources.

Submission: The Chairperson of the DPC forwards the draft development plan to the Maharashtra state government for approval and implementation.

#### Example 2:

Scenario: A district in Kerala is facing issues with water scarcity and needs a comprehensive plan to address it.

#### Application:

Formation of Committee: The Kerala state government sets up a District Planning Committee (DPC) for Thiruvananthapuram district.

Composition: The DPC includes members elected from the Panchayats and Municipalities, with a majority being elected representatives. The composition reflects the population distribution between rural and urban areas.

Draft Development Plan: The DPC consolidates plans from local Panchayats and Municipalities, focusing on water resource management, including the construction of new water reservoirs and rainwater harvesting systems.

Consultation: The DPC consults with local water management experts and environmental organizations as specified by the Governor.

Submission: The Chairperson of the DPC forwards the comprehensive water management plan to the Kerala state government for approval and funding.

#### Example 3:

Scenario: A district in Uttar Pradesh aims to enhance its educational infrastructure.

#### Application:

Formation of Committee: The Uttar Pradesh state government establishes a District Planning Committee (DPC) for Varanasi district.

Composition: The DPC is formed with elected members from the Panchayats and Municipalities, ensuring representation based on the population ratio of rural and urban areas.

**Draft Development Plan:** The DPC consolidates educational development plans from various Panchayats and Municipalities, focusing on building new schools, upgrading existing facilities, and integrating digital learning tools.

**Consultation:** The DPC consults educational institutions and NGOs working in the education sector as specified by the Governor.

**Submission:** The Chairperson of the DPC forwards the educational development plan to the Uttar Pradesh state government for approval and implementation.

Example 4:

**Scenario:** A district in Tamil Nadu is looking to boost its local economy through tourism development.

**Application:**

**Formation of Committee:** The Tamil Nadu state government forms a District Planning Committee (DPC) for Madurai district.

**Composition:** The DPC includes elected members from the Panchayats and Municipalities, with representation based on the population ratio of rural and urban areas.

**Draft Development Plan:** The DPC consolidates tourism development plans from local Panchayats and Municipalities, focusing on improving tourist attractions, infrastructure, and marketing strategies.

**Consultation:** The DPC consults tourism boards, local businesses, and cultural organizations as specified by the Governor.

**Submission:** The Chairperson of the DPC forwards the tourism development plan to the Tamil Nadu state government for approval and funding.

### **Article 243ZE: Committee for Metropolitan planning.**

Metropolitan Planning Committee

(1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to -

- (a) the composition of the Metropolitan Planning Committees;
  - (b) the manner in which the seats in such Committees shall be filled: Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;
  - (c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
  - (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
  - (e) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every Metropolitan Planning Committee shall, in preparing the draft development plan, -
- (a) have regard to -
    - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
    - (ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
    - (iii) the overall objectives and priorities set by the Government of India and the Government of the State;
    - (iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
  - (b) consult such institutions and organisations as the Governor may, by order, specify.
- (4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.



## **Simplified act**

### Metropolitan Planning Committee

(1) In every large city area, there will be a Metropolitan Planning Committee. This committee will create a draft plan for the development of the entire metropolitan area.

(2) The State Legislature can make laws about:

(a) Who will be on the Metropolitan Planning Committees;

(b) How the seats on these Committees will be filled:

At least two-thirds of the members must be elected by and from the elected members of the Municipalities and the Chairpersons of the Panchayats in the metropolitan area. The number of members from Municipalities and Panchayats should be based on their population ratio in that area;

(c) Including representatives from the Government of India, the State Government, and other necessary organizations and institutions in these Committees;

(d) The planning and coordination tasks that these Committees will handle for the metropolitan area;

(e) How the Chairpersons of these Committees will be chosen.

(3) When preparing the draft development plan, every Metropolitan Planning Committee must:

(a) Consider:

(i) The plans made by the Municipalities and Panchayats in the metropolitan area;

(ii) Common interests between the Municipalities and Panchayats, such as coordinated planning of the area, sharing of water and other resources, integrated infrastructure development, and environmental conservation;

(iii) The overall goals and priorities set by the Government of India and the State Government;

(iv) The likely investments in the metropolitan area by the Government of India, the State Government, and other available resources, whether financial or otherwise;

(b) Consult with institutions and organizations specified by the Governor.

(4) The Chairperson of every Metropolitan Planning Committee must send the recommended development plan to the State Government.

Explanation using Example

Example 1:

Scenario: Development of a New Metro Rail Project in Mumbai

Context: The Government of Maharashtra plans to develop a new metro rail line in Mumbai to ease traffic congestion and improve public transportation.

Application of Article 243ZE:

Constitution of Committee: A Metropolitan Planning Committee (MPC) is constituted for the Mumbai Metropolitan Region.

Composition: The MPC includes elected members from the Municipal Corporation of Greater Mumbai and Chairpersons of Panchayats from surrounding areas, ensuring that two-thirds of the members are elected representatives.

Representation: The Committee also includes representatives from the Government of India, the Government of Maharashtra, and relevant organizations such as the Mumbai Metropolitan Region Development Authority (MMRDA).

Draft Development Plan: The MPC prepares a draft development plan for the new metro rail project, considering:

Existing plans from the Municipal Corporation and Panchayats.

Coordination of spatial planning, water resources, and infrastructure development.

Objectives and priorities set by the central and state governments.

Potential investments from government agencies and other financial resources.

Consultation: The MPC consults with institutions specified by the Governor, such as urban planning experts and environmental organizations.

Submission: The Chairperson of the MPC forwards the draft development plan to the Government of Maharashtra for approval and implementation.

#### Example 2:

Scenario: Integrated Water Management in the Delhi Metropolitan Area

Context: The Delhi Metropolitan Area faces severe water scarcity and pollution issues, requiring a coordinated approach to water management.

Application of Article 243ZE:

Constitution of Committee: A Metropolitan Planning Committee (MPC) is constituted for the Delhi Metropolitan Area.

Composition: The MPC includes elected members from the Municipal Corporation of Delhi and Chairpersons of Panchayats from surrounding rural areas, ensuring that two-thirds of the members are elected representatives.

Representation: The Committee also includes representatives from the Government of India, the Government of Delhi, and relevant organizations such as the Delhi Jal Board.

Draft Development Plan: The MPC prepares a draft development plan for integrated water management, considering:

Existing water management plans from the Municipal Corporation and Panchayats.

Coordination of water resource sharing, infrastructure development, and environmental conservation.

Objectives and priorities set by the central and state governments.

Potential investments from government agencies and other financial resources.

Consultation: The MPC consults with institutions specified by the Governor, such as water management experts and environmental NGOs.

Submission: The Chairperson of the MPC forwards the draft development plan to the Government of Delhi for approval and implementation.

#### Example 3:

Scenario: Urban Renewal Project in Bengaluru

Context: The Government of Karnataka plans an urban renewal project in Bengaluru to revitalize old neighborhoods and improve living conditions.

Application of Article 243ZE:

Constitution of Committee: A Metropolitan Planning Committee (MPC) is constituted for the Bengaluru Metropolitan Area.

Composition: The MPC includes elected members from the Bruhat Bengaluru Mahanagara Palike (BBMP) and Chairpersons of Panchayats from surrounding areas, ensuring that two-thirds of the members are elected representatives.

Representation: The Committee also includes representatives from the Government of India, the Government of Karnataka, and relevant organizations such as the Bangalore Development Authority (BDA).

Draft Development Plan: The MPC prepares a draft development plan for the urban renewal project, considering:

Existing plans from the BBMP and Panchayats.

Coordination of spatial planning, infrastructure development, and environmental conservation.

Objectives and priorities set by the central and state governments.

Potential investments from government agencies and other financial resources.

Consultation: The MPC consults with institutions specified by the Governor, such as urban planning experts and housing authorities.

Submission: The Chairperson of the MPC forwards the draft development plan to the Government of Karnataka for approval and implementation.

**Article 243ZF: Continuance of existing laws and Municipalities.**

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Notwithstanding anything in this Constitution,

### **Simplified act**

Despite anything mentioned in this Part, any law about Municipalities that was in effect in a State right before the Constitution (Seventy-fourth Amendment) Act, 1992 started, which doesn't match with the rules in this Part, will still be valid until it is changed or canceled by a proper Legislature or authority, or until one year passes from the start of the Amendment, whichever happens first.

However, all the Municipalities that existed right before the Amendment started will continue to exist until their term ends, unless they are dissolved earlier by a resolution passed by the State's Legislative Assembly or, if the State has a Legislative Council, by both Houses of the State Legislature.

Despite anything in this Constitution,

Explanation using Example

Example 1:

In the state of Maharashtra, there was a law governing the functioning of Municipalities that was in place before the Constitution (Seventy-fourth Amendment) Act, 1992, came into effect. This law had certain provisions that were not in line with the new amendments introduced by the Seventy-fourth Amendment. According to Article 243ZF, these old provisions would continue to be valid for up to one year after the amendment came into force, unless the Maharashtra State Legislature amended or repealed them sooner. During this one-year period, the existing Municipalities would continue to operate under the old law until the new provisions were formally adopted.

Example 2:

In Karnataka, a Municipality was established and functioning under a state law that existed before the Seventy-fourth Amendment. After the amendment came into effect, the state law had to be aligned with the new constitutional

provisions. However, the Municipality continued to function under the old law for a few months until the Karnataka Legislative Assembly passed a new law that was consistent with the Seventy-fourth Amendment. If the Legislative Assembly had not passed the new law within one year, the old law would have automatically ceased to be in force, and the Municipality would have had to follow the new constitutional provisions directly.

**Article 243ZG: Bar to interference by courts in electoral matters.**

(a) The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) No election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

**Simplified act**

(a) You cannot challenge the legality of any law about the boundaries of voting areas or the number of seats in those areas, if the law was made under article 243ZA, in any court.

(b) You can only challenge an election to a Municipality by filing an election petition to the designated authority, following the process set by the State Legislature.

**Explanation using Example**

**Example 1:**

Ravi, a resident of a small town in Maharashtra, believes that the recent delimitation of constituencies in his area is unfair and biased. He decides to file a case in the High Court challenging the validity of the new constituency boundaries. However, under Article 243ZG(a) of the Constitution of India, the court cannot entertain his petition regarding the delimitation of constituencies. Instead, Ravi must accept the boundaries as they are, as the law relating to delimitation cannot be questioned in any court.

**Example 2:**

Priya, a candidate in the municipal elections in Bangalore, suspects that there were irregularities in the election process and believes that the results were manipulated. She wants to challenge the election results in the Karnataka High

Court. However, according to Article 243ZG(b) of the Constitution of India, she cannot directly approach the court to question the election results. Instead, Priya must file an election petition with the designated authority as specified by the state legislature. This petition will be reviewed and decided upon according to the procedures laid out by the state law.

## **PART IXB: THE CO-OPERATIVE SOCIETIES**

### **ARTICLE 243ZH: DEFINITIONS.**

#### Definitions

In this Part, unless the context otherwise requires, -

- (a) "authorised person" means a person referred to as such in article 243ZQ;
- (b) "board" means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;
- (c) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- (d) "multi-State co-operative society" means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;
- (e) "office bearer" means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer, of a co-operative society and includes any other person to be elected by the board of any co-operative society;
- (f) "Registrar" means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;
- (g) "State Act" means any law made by the Legislature of a State;
- (h) "State level co-operative society" means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

### **Simplified act**

## Definitions

In this Part, unless the context otherwise requires, -

- (a) "authorised person" means a person mentioned as such in article 243ZQ;
- (b) "board" means the group of people in charge of managing a co-operative society, no matter what they are called;
- (c) "co-operative society" means a group registered under any current state law related to co-operative societies;
- (d) "multi-State co-operative society" means a group with activities in more than one state, registered under any current law related to such co-operatives;
- (e) "office bearer" means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary, or Treasurer of a co-operative society, and includes any other person elected by the board of a co-operative society;
- (f) "Registrar" means the Central Registrar appointed by the Central Government for multi-State co-operative societies, and the Registrar for co-operative societies appointed by the State Government under state law;
- (g) "State Act" means any law made by a State Legislature;
- (h) "State level co-operative society" means a co-operative society operating throughout an entire state, as defined by any state law.

## Explanation using Example

### Example 1:

Scenario: A group of farmers in Maharashtra decides to form a co-operative society to collectively sell their produce and share resources.

### Application of Definitions:

The group registers their society under the Maharashtra Co-operative Societies Act, making it a "co-operative society" as defined in clause (c).

They elect a President, Vice-President, Secretary, and Treasurer to manage the society's affairs. These individuals are considered "office bearers" as per clause (e).



The society's management and decision-making are handled by a "board" of directors, which includes the elected office bearers, aligning with the definition in clause (b).

The "Registrar" for this society is the official appointed by the Maharashtra State Government to oversee co-operative societies, as per clause (f).

#### Example 2:

Scenario: A co-operative society in Karnataka wants to expand its operations to Tamil Nadu and Kerala to market its dairy products.

#### Application of Definitions:

Since the society's operations will extend beyond Karnataka, it needs to register as a "multi-State co-operative society" under the Multi-State Co-operative Societies Act, fitting the definition in clause (d).

The society's governing body, which includes the President, Vice-President, and other elected members, is referred to as the "board" as per clause (b).

The "Registrar" for this multi-State co-operative society is the Central Registrar appointed by the Central Government, according to clause (f).

The laws governing the society in Karnataka and Tamil Nadu are referred to as "State Acts" as defined in clause (g).

If the society's operations were limited to Karnataka alone, it would be considered a "State level co-operative society" as per clause (h).

#### Example 3:

Scenario: A co-operative housing society in Gujarat elects a new Chairperson and Secretary.

#### Application of Definitions:

The housing society is a "co-operative society" registered under the Gujarat Co-operative Societies Act, fitting the definition in clause (c).

The newly elected Chairperson and Secretary are "office bearers" as defined in clause (e).

The society's management is overseen by a "board" of directors, which includes the Chairperson, Secretary, and other elected members, aligning with the definition in clause (b).

The "Registrar" for this society is the official appointed by the Gujarat State Government to oversee co-operative societies, as per clause (f).

### **Article 243ZI: Incorporation of co-operative societies.**

Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

### **Simplified act**

According to the rules in this section, the State Legislature can create laws about co-operative societies.

These laws can cover how co-operative societies are started, managed, and closed down.

The co-operative societies must follow principles like:

Being formed voluntarily (people join by choice),

Being controlled democratically by their members,

Allowing members to participate economically,

Operating independently.

Explanation using Example

Example 1:

Ravi and his friends in a village in Maharashtra decide to form a co-operative society to help local farmers get better prices for their produce. They voluntarily come together and approach the state government to incorporate their co-operative society. The Maharashtra state legislature, under the provisions of Article 243ZI, enacts a law that outlines the process for incorporating such societies. This law ensures that the co-operative society is formed based on democratic member-control, meaning all members have a say in the decision-making process, and member-economic participation, meaning profits are

shared among the members. The society operates autonomously, without undue interference from external entities.

Example 2:

A group of artisans in Tamil Nadu wants to create a co-operative society to market their handmade crafts. They follow the state law enacted under Article 243ZI, which provides guidelines for the incorporation, regulation, and winding up of co-operative societies. The law ensures that the society is formed voluntarily and operates democratically, with each artisan having an equal vote in the society's decisions. The profits from the sale of crafts are distributed among the members, and the society functions independently, managing its own affairs without external control. If the society ever needs to be dissolved, the same law provides a clear process for winding up the society's operations.

**Article 243ZJ: Number and term of members of board and its office bearers.**

(1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be coterminous with the term of the board:

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (1).

### **Simplified act**

(1) The board will have a certain number of directors as decided by the State Legislature through a law:

However, a co-operative society can have no more than twenty-one directors:

Additionally, the State Legislature must ensure that one seat is reserved for Scheduled Castes or Scheduled Tribes and two seats for women on the board of every co-operative society that has individual members from these groups.

(2) The elected members of the board and its office bearers will serve for five years from the date they are elected, and the office bearers' term will end at the same time as the board's term:

If there is a vacancy on the board and the remaining term is less than half of the original term, the board can fill the vacancy by nominating someone from the same group of members.

(3) These nominated members will not have the right to vote in any election of the co-operative society or be eligible to be elected as office bearers of the board:

Also, the functional directors of a co-operative society will be members of the board, but they will not be counted when determining the total number of directors as mentioned in the first point.

Explanation using Example

Example 1:

Scenario: Formation of a New Co-operative Society in Maharashtra

A group of farmers in Maharashtra decides to form a new co-operative society to market their agricultural produce. According to the state law, the board of directors for this co-operative society can have up to 21 members.

Application of Article 243ZJ:

**Number of Directors:** The farmers decide to have 15 directors on the board, which is within the limit of 21 as specified by the law.

**Reservation of Seats:**

They reserve one seat for a member from the Scheduled Castes (SC) or Scheduled Tribes (ST) as required.

They also reserve two seats for women members.

**Term of Office:** The elected members of the board and its office bearers will serve a term of five years from the date of their election.

**Casual Vacancy:** If a director resigns or passes away, and the remaining term of the board is less than 2.5 years (half of the original term), the board can nominate a new director from the same category (e.g., SC/ST or women) to fill the vacancy.

**Co-opted Members:** If the board co-opts any members for their expertise, these co-opted members will not have the right to vote in any election of the co-operative society or be eligible to be elected as office bearers.

**Functional Directors:** The managing director of the co-operative society, who is a functional director, will also be a member of the board but will not be counted towards the maximum limit of 21 directors.

**Example 2:**

**Scenario:** Casual Vacancy in a Co-operative Society in Karnataka

A co-operative society in Karnataka has a board of 18 directors. One of the directors, who was a woman, resigns with 1 year left in the board's term.

**Application of Article 243ZJ:**

**Casual Vacancy:** Since the remaining term of the board is less than half of the original term (2.5 years), the board can nominate a new woman director to fill the vacancy.

**Term of Office:** The new director will serve for the remaining 1 year of the board's term.

**Voting Rights:** If the board decides to co-opt an expert member to assist with specific functions, this co-opted member will not have the right to vote in any

election of the co-operative society or be eligible to be elected as an office bearer.

**Functional Directors:** The society's functional director, such as the CEO, will continue to be a member of the board but will not be counted towards the maximum limit of 21 directors.

**Example 3:**

**Scenario:** Election of a New Board in a Co-operative Society in Tamil Nadu

A co-operative society in Tamil Nadu is due for its board elections. The society has 20 directors, including 1 SC/ST member and 2 women members.

**Application of Article 243ZJ:**

**Number of Directors:** The society decides to maintain the number of directors at 20, which is within the limit of 21.

**Reservation of Seats:**

They ensure that one seat is reserved for an SC/ST member.

They also ensure that two seats are reserved for women members.

**Term of Office:** The newly elected members of the board and its office bearers will serve a term of five years from the date of their election.

**Functional Directors:** The society's functional director, such as the Chief Financial Officer (CFO), will be a member of the board but will not be counted towards the maximum limit of 21 directors.

**Co-opted Members:** If the board co-opts any members for their expertise, these co-opted members will not have the right to vote in any election of the co-operative society or be eligible to be elected as office bearers.

These examples illustrate how Article 243ZJ of the Constitution of India applies to the formation, functioning, and management of co-operative societies in different states, ensuring compliance with the legal requirements for the number of directors, reservation of seats, term of office, and handling of casual vacancies.

**Article 243ZK: Election of members of board.**

(1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of the office of members of the outgoing board. The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society, as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (1):

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

### **Simplified act**

(1) No matter what any state law says, the election for a new board must happen before the current board's term ends. This is to make sure that the new board members take over as soon as the old board's term is over. The state law should also include rules for adding people to the board who have experience in banking, management, finance, or any other relevant field related to the co-operative society's activities:

However, the number of these additional members should not be more than two, on top of the twenty-one directors already mentioned.

(2) The responsibility for overseeing, directing, and controlling the preparation of voter lists and the conduct of all elections for a co-operative society will be given to a specific authority or body as decided by state law:

Additionally, the state law can set the procedures and guidelines for how these elections should be conducted.

Explanation using Example

Example 1:

### Scenario: A Co-operative Housing Society in Mumbai

The term of the current board of directors of a Co-operative Housing Society in Mumbai is about to expire in three months. According to Article 243ZK, the election for the new board must be conducted before the current board's term ends. This ensures that the new board members can take office immediately after the current board's term expires.

#### Application:

The State Legislature of Maharashtra has made provisions for the election process.

The election authority, as designated by the state law, prepares the electoral rolls and oversees the election process.

The election is conducted smoothly, and the new board members are elected.

On the day the current board's term expires, the newly elected board members assume office without any delay.

Additionally, the State Legislature has a provision to co-opt two members with expertise in finance and management to the board, ensuring that the board benefits from their specialized knowledge.

#### Example 2:

### Scenario: A Co-operative Bank in Bangalore

The board of directors of a Co-operative Bank in Bangalore is nearing the end of its five-year term. To comply with Article 243ZK, the election for the new board must be held before the current board's term ends.

#### Application:

The Karnataka State Legislature has established laws for the election process of co-operative societies.

The designated election authority is responsible for preparing the electoral rolls and conducting the election.

The election is held two months before the current board's term expires.

The newly elected board members are ready to take office immediately after the current board's term ends.



In addition, the Karnataka State Legislature has a provision to co-opt two members with expertise in banking and finance to the board, ensuring that the board has the necessary expertise to manage the bank's operations effectively.

**Article 243ZL: Supersession and suspension of board and interim management.**

Section - (1)

Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Provided that the board may be superseded or kept under suspension in a case -

- (i) of its persistent default; or
- (ii) of negligence in the performance of its duties; or
- (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or
- (iv) there is stalemate in the constitution or functions of the board; or
- (v) the authority or body as provided by the Legislature of a State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply:

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six months", the words "one year" had been substituted.

Section - (2)

In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

#### Section - (3)

The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

### **Simplified act**

#### Section - (1)

No matter what other laws say, a board cannot be removed or suspended for more than six months:

However, a board can be removed or suspended if:

- (i) It repeatedly fails to do its job; or
- (ii) It is careless in doing its duties; or
- (iii) It does something harmful to the co-operative society or its members; or
- (iv) There is a deadlock in the board's structure or functions; or
- (v) The state authority responsible for holding elections fails to do so according to state law:

Additionally, a board cannot be removed or suspended if the co-operative society does not have any government investment, loan, financial help, or guarantee:

Also, if the co-operative society is involved in banking, the Banking Regulation Act, 1949 applies:

Furthermore, if the co-operative society is involved in banking but is not a multi-state co-operative society, the suspension period can be up to one year instead of six months.

#### Section - (2)

If a board is removed, an administrator will be appointed to manage the co-operative society and must arrange elections within the specified period and then hand over control to the newly elected board.

### Section - (3)

The state legislature can make laws about the working conditions of the administrator.

#### Explanation using Example

##### Example 1:

Scenario: A Co-operative Society in Maharashtra

Situation: The board of a co-operative housing society in Mumbai has been found guilty of persistent default in maintaining the society's accounts and records. Additionally, the board members have been negligent in addressing the complaints of the society members regarding maintenance issues.

#### Application of Article 243ZL:

The state authority decides to supersede the board due to its persistent default and negligence in performing its duties.

An administrator is appointed to manage the affairs of the society.

The administrator is required to arrange for elections within six months to elect a new board.

Since the society does not have any government shareholding or financial assistance, the board cannot be kept under suspension for more than six months.

##### Example 2:

Scenario: A Co-operative Bank in Karnataka

Situation: A co-operative bank in Bangalore is facing a stalemate in its board's constitution, leading to a complete halt in its decision-making process. Additionally, the bank has received financial assistance from the state government.

#### Application of Article 243ZL:

The state authority decides to supersede the board due to the stalemate in its constitution and the financial assistance received from the government.

An administrator is appointed to manage the bank's affairs.

Since the co-operative society is carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, also apply.

The administrator is required to arrange for elections within one year to elect a new board, as the co-operative society is involved in banking activities.

The administrator manages the bank's operations until the new board is elected and takes over.

Example 3:

Scenario: A Multi-State Co-operative Society

Situation: A multi-state co-operative society operating in both Gujarat and Rajasthan has committed acts prejudicial to the interests of its members, including mismanagement of funds and failure to conduct timely elections.

Application of Article 243ZL:

The central authority decides to supersede the board due to acts prejudicial to the interests of the society and its members.

An administrator is appointed to manage the society's affairs.

The administrator is required to arrange for elections within six months to elect a new board.

Since the society operates in multiple states, the provisions of the Banking Regulation Act, 1949, do not apply, and the six-month period for conducting elections remains unchanged.

The administrator ensures that the society's operations are stabilized and prepares for the election of a new board within the specified period.

### **Article 243ZM: Audit of accounts of co-operative societies.**

Legislature Provisions for Co-operative Societies

(1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the co-operative societies.

(3) Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorised by the State Government in this behalf. Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society:

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

### **Simplified act**

#### Legislature Provisions for Co-operative Societies

(1) The State Legislature can make laws about how co-operative societies should keep their financial records and ensure these records are checked (audited) at least once every financial year.

(2) The State Legislature must also set the minimum qualifications and experience required for auditors and auditing firms that are allowed to check the financial records of co-operative societies.

(3) These auditors or auditing firms must be chosen from a list approved by the State Government or an authorized authority. Every co-operative society must have its financial records checked by an auditor or auditing firm from this approved list, and this auditor or firm must be appointed by the general body of the co-operative society.

(4) The financial records of every co-operative society must be audited within six months after the end of the financial year to which the records belong.

(5) The audit report of the financial records of a top-level co-operative society (as defined by State law) must be presented to the State Legislature in the manner specified by the State Legislature.

Explanation using Example

### Example 1:

Scenario: A Dairy Co-operative Society in Maharashtra

#### Details:

The Maharashtra State Legislature has enacted a law requiring all co-operative societies to maintain detailed financial records and have their accounts audited annually.

The Dairy Co-operative Society in Pune has just completed its financial year on March 31, 2023.

According to the law, the society must have its accounts audited by September 30, 2023 (within six months of the financial year-end).

#### Process:

The general body of the Dairy Co-operative Society convenes a meeting to appoint an auditor.

They select an auditor from a panel approved by the Maharashtra State Government.

The chosen auditor, who meets the minimum qualifications and experience as laid down by the state law, conducts the audit.

The audit report is prepared and submitted to the society's management.

Since this is an apex co-operative society, the audit report is also laid before the Maharashtra State Legislature as required by the state law.

#### Outcome:

The Dairy Co-operative Society complies with Article 243ZM by ensuring its accounts are audited within the stipulated time frame and by a qualified auditor.

The audit report helps maintain transparency and accountability within the society.

### Example 2:

Scenario: A Housing Co-operative Society in Karnataka

#### Details:

The Karnataka State Legislature has passed a law mandating the maintenance and annual auditing of accounts for all co-operative societies.

A Housing Co-operative Society in Bangalore has its financial year ending on March 31, 2023.

The society must have its accounts audited by September 30, 2023.

Process:

The general body of the Housing Co-operative Society holds a meeting to appoint an auditor.

They choose an auditing firm from a panel approved by the Karnataka State Government.

The selected auditing firm, which meets the qualifications and experience criteria set by the state law, conducts the audit.

The audit is completed, and the report is submitted to the society's management.

The audit report is reviewed by the society's members during the annual general meeting.

Outcome:

The Housing Co-operative Society adheres to Article 243ZM by having its accounts audited within the required period and by a qualified auditing firm.

The audit report ensures financial transparency and helps in the proper management of the society's funds.

### **Article 243ZN: Convening of general body meetings.**

The Legislature of a State may, by law, make provisions that the annual general body meeting of every co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

### **Simplified act**

The state government can create a law that requires every co-operative society to hold their annual general meeting within six months after the end of the financial year.

During this meeting, they will discuss and handle the business matters as specified in that law.

Explanation using Example

Example 1:

Scenario: A Dairy Co-operative Society in Maharashtra

Details: The Maharashtra State Legislature has passed a law requiring all co-operative societies to hold their annual general body meetings within six months after the end of the financial year. The financial year ends on March 31st.

Application: The Dairy Co-operative Society must hold its annual general body meeting by September 30th. During this meeting, they will discuss and approve the annual financial statements, elect new board members, and address any other business as specified by the state law.

Outcome: By adhering to this timeline, the Dairy Co-operative Society ensures compliance with the state law, maintains transparency with its members, and facilitates smooth governance.

Example 2:

Scenario: A Housing Co-operative Society in Karnataka

Details: The Karnataka State Legislature has enacted a law mandating that all co-operative societies must convene their annual general body meetings within six months of the financial year's end, which is March 31st.

Application: The Housing Co-operative Society must organize its annual general body meeting by September 30th. The agenda for this meeting includes presenting the annual audit report, discussing maintenance issues, approving the budget for the next year, and addressing any member grievances.

Outcome: By holding the meeting within the stipulated time frame, the Housing Co-operative Society complies with the legal requirements, ensures accountability, and engages its members in important decision-making processes.

### **Article 243ZO: Right of a member to get information.**

Legislature Provisions for Co-operative Societies



(1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilising the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

### **Simplified act**

#### Legislature Provisions for Co-operative Societies

(1) The State Legislature can make laws that allow every member of a co-operative society to access the society's books, information, and accounts related to their transactions.

(2) The State Legislature can make laws to ensure that members take part in managing the co-operative society. This includes setting rules for attending meetings and using the society's services.

(3) The State Legislature can make laws to provide education and training for the members of the co-operative society.

#### Explanation using Example

##### Example 1:

Ravi is a member of the "Green Farmers Co-operative Society" in Maharashtra. He suspects that the society's funds are being misused by the management. Under Article 243ZO, Ravi has the right to access the books, information, and accounts of the co-operative society. He approaches the society's office and requests to see the financial records. The society, as per the state law, must provide Ravi with the necessary documents to review the transactions and ensure transparency.

##### Example 2:

Meera is a member of the "Sunshine Women's Co-operative Society" in Tamil Nadu. The society has an annual general meeting (AGM) where important decisions are made. According to the state law enacted under Article 243ZO,

Meera is required to attend at least two AGMs in a year to maintain her active membership status. Additionally, the society offers training sessions on co-operative management and financial literacy. Meera attends these sessions to better understand her role and responsibilities within the co-operative, ensuring she can effectively participate in its management.

### **Article 243ZP: Returns.**

Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following matters, namely:

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of the co-operative society;
- (d) list of amendments to the bye-laws of the co-operative society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.

### **Simplified act**

Every co-operative society must submit reports within six months after the end of each financial year to the authority chosen by the State Government. These reports should include the following:

- (a) a yearly report of what the society has done;
- (b) its audited financial statements;
- (c) a plan for how to use any extra money, as approved by the society's general body;
- (d) a list of any changes to the society's rules, if there are any;
- (e) a statement about when the general body meeting was held and when elections were conducted, if they were due; and
- (f) any other information that the Registrar asks for according to the State Act.

## Explanation using Example

### Example 1:

Scenario: A Farmer's Co-operative Society in Maharashtra

The "Green Harvest Co-operative Society" is a farmer's co-operative society in Maharashtra. The financial year ends on March 31st. According to Article 243ZP, the society must file its returns by September 30th.

Annual Report of Activities: The society submits a detailed report outlining the various activities undertaken during the year, such as procurement of seeds, distribution of fertilizers, and training programs for farmers.

Audited Statement of Accounts: The society provides an audited financial statement showing income from the sale of produce, expenses on procurement, salaries, and other operational costs.

Plan for Surplus Disposal: The general body of the society approves a plan to use the surplus funds for building a new storage facility and providing scholarships to the children of member farmers.

List of Amendments to Bye-laws: The society submits a list of amendments made to its bye-laws, such as changes in membership criteria and voting rights.

Declaration Regarding General Body Meeting and Elections: The society declares that it held its annual general body meeting on June 15th and conducted elections for the board of directors on the same day.

Other Information Required by Registrar: The Registrar requests additional information on the society's compliance with environmental regulations, which the society provides.

### Example 2:

Scenario: An Urban Housing Co-operative Society in Delhi

The "Sunshine Housing Co-operative Society" is an urban housing co-operative society in Delhi. The financial year ends on March 31st. According to Article 243ZP, the society must file its returns by September 30th.

Annual Report of Activities: The society submits a report detailing activities such as maintenance of common areas, security arrangements, and community events organized for residents.

Audited Statement of Accounts: The society provides an audited financial statement showing income from maintenance fees, expenses on repairs, salaries of staff, and utility bills.

Plan for Surplus Disposal: The general body approves a plan to use the surplus funds for installing solar panels and upgrading the water filtration system.

List of Amendments to Bye-laws: The society submits a list of amendments made to its bye-laws, such as changes in parking regulations and pet policies.

Declaration Regarding General Body Meeting and Elections: The society declares that it held its annual general body meeting on July 10th and conducted elections for the management committee on the same day.

Other Information Required by Registrar: The Registrar requests additional information on the society's fire safety measures, which the society provides.

### **Article 243ZQ: Offences and penalties.**

#### Offences Relating to Co-operative Societies

(1) The Legislature of a State may, by law, make provisions for the offences relating to the co-operative societies and penalties for such offences.

(2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:

(a) A co-operative society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorised in this behalf under the provisions of the State Act;

(b) Any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;

(c) Any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;

(d) Any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person; and

(e) Whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.

### **Simplified act**

#### Offences Relating to Co-operative Societies

(1) The state government can create laws about crimes related to co-operative societies and set penalties for those crimes.

(2) These state laws should consider the following actions as crimes:

(a) If a co-operative society, or any of its officers or members, knowingly provides false information or fails to provide required information when asked by an authorized person under the state law.

(b) If anyone deliberately or without a good reason ignores any official summons, request, or lawful written order issued under the state law.

(c) If an employer, without a valid reason, does not pay the co-operative society the amount deducted from an employee's salary within fourteen days of the deduction.

(d) If an officer or custodian intentionally does not hand over the books, accounts, documents, records, cash, securities, and other property of the co-operative society to an authorized person.

(e) If anyone engages in corrupt practices before, during, or after the election of board members or office bearers of the co-operative society.

#### Explanation using Example

##### Example 1:

Scenario: A co-operative society in Maharashtra is required to submit an annual financial return to the state government. The treasurer of the society, Mr. Sharma, knowingly submits a false return showing inflated profits to hide the society's actual financial troubles.

Application of the Act: Under Article 243ZQ(2)(a), Mr. Sharma has committed an offence by wilfully making a false return. The state law can impose penalties on Mr. Sharma for this act, which may include fines or imprisonment.

##### Example 2:

Scenario: Ms. Gupta, a member of a co-operative housing society in Delhi, is summoned by the society's auditor to provide information about certain financial transactions. Ms. Gupta, without any valid reason, refuses to comply with the summons.

Application of the Act: Under Article 243ZQ(2)(b), Ms. Gupta has committed an offence by wilfully disobeying a lawful summons. The state law can impose penalties on Ms. Gupta for her non-compliance, which may include fines or other legal consequences.

#### Example 3:

Scenario: An employer in Karnataka deducts a portion of his employees' salaries to contribute to a co-operative credit society. However, the employer fails to transfer the deducted amount to the society within the stipulated 14-day period.

Application of the Act: Under Article 243ZQ(2)(c), the employer has committed an offence by failing to pay the deducted amount to the co-operative society within the required timeframe. The state law can impose penalties on the employer for this failure, which may include fines or other legal actions.

#### Example 4:

Scenario: Mr. Verma, the custodian of a co-operative society's records in Gujarat, is asked to hand over all the society's books, accounts, and documents to a newly appointed officer. Mr. Verma, however, wilfully refuses to do so.

Application of the Act: Under Article 243ZQ(2)(d), Mr. Verma has committed an offence by wilfully failing to hand over the society's property to the authorised person. The state law can impose penalties on Mr. Verma for this act, which may include fines or imprisonment.

#### Example 5:

Scenario: During the election of board members for a co-operative society in Tamil Nadu, a candidate, Mr. Reddy, engages in corrupt practices such as bribing voters and spreading false information about his opponents.

Application of the Act: Under Article 243ZQ(2)(e), Mr. Reddy has committed an offence by adopting corrupt practices during the election. The state law can

impose penalties on Mr. Reddy for his actions, which may include disqualification from the election, fines, or other legal consequences.

### **Article 243ZR: Application to multi-State co-operative societies.**

The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to "Legislature of a State", "State Act" or "State Government" shall be construed as a reference to "Parliament", "Central Act" or "the Central Government" respectively.

### **Simplified act**

The rules in this section apply to multi-State co-operative societies. Whenever you see "Legislature of a State", "State Act", or "State Government" in this section, it should be understood as "Parliament", "Central Act", or "the Central Government" instead.

Explanation using Example

Example 1:

Scenario: A multi-State co-operative society named "Farmers United Co-operative Society" operates in both Maharashtra and Gujarat. The society is involved in agricultural activities and has members from both states.

Application of Article 243ZR: When "Farmers United Co-operative Society" needs to amend its by-laws, instead of referring to the "Legislature of a State" or "State Government" for approval, they must seek approval from the "Parliament" or the "Central Government." Similarly, any legal issues or regulatory compliance matters will be governed by the "Central Act" rather than individual state laws.

Example 2:

Scenario: "Health Co-op Society" is a multi-State co-operative society providing healthcare services across Karnataka and Tamil Nadu. They plan to expand their services to include telemedicine.

Application of Article 243ZR: For "Health Co-op Society" to implement telemedicine services, they must adhere to regulations set by the "Central Government" rather than the state governments of Karnataka and Tamil Nadu. If there are any disputes or legal requirements, they will be addressed under the "Central Act" and not under the individual state acts. This ensures

uniformity in the application of laws and regulations across all states where the society operates.

### **Article 243ZS: Application to Union territories.**

- The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.

### **Simplified act**

The rules in this section apply to Union territories. If a Union territory does not have a Legislative Assembly, then any mention of the State Legislature should be understood as referring to the administrator appointed under Article 239. If the Union territory does have a Legislative Assembly, then it refers to that Legislative Assembly.

However, the President can announce in the Official Gazette that these rules do not apply to any specific Union territory or part of it, as specified in the announcement.

Explanation using Example

Example 1:

Scenario: The Union Territory of Lakshadweep does not have a Legislative Assembly.

Application: In Lakshadweep, the provisions of Part IXB of the Constitution, which deals with Co-operative Societies, will apply as if references to the Legislature of a State are references to the Administrator of Lakshadweep appointed under Article 239. This means that any legislative powers or responsibilities that would normally fall to a State Legislature under Part IXB will instead be handled by the Administrator.

Hypothetical Situation: Suppose there is a need to amend the rules governing co-operative societies in Lakshadweep. Normally, in a state, this would be done by the State Legislature. However, in Lakshadweep, the Administrator will have



the authority to make these amendments, ensuring that the co-operative societies operate smoothly and in accordance with the law.

#### Example 2:

Scenario: The Union Territory of Delhi has a Legislative Assembly.

Application: In Delhi, the provisions of Part IXB of the Constitution will apply to the Legislative Assembly of Delhi. This means that the Legislative Assembly of Delhi will have the same powers and responsibilities regarding co-operative societies as a State Legislature would have under Part IXB.

Hypothetical Situation: Imagine the Legislative Assembly of Delhi wants to introduce a new policy to promote the growth of co-operative societies in the region. The Assembly can draft, debate, and pass legislation specifically tailored to the needs of co-operative societies in Delhi, just as a State Legislature would do. This ensures that the co-operative societies in Delhi are governed by laws that reflect the unique needs and circumstances of the Union Territory.

#### Example 3:

Scenario: The President of India decides that the provisions of Part IXB should not apply to a specific Union Territory.

Application: The President issues a notification in the Official Gazette stating that the provisions of Part IXB will not apply to the Union Territory of Andaman and Nicobar Islands.

Hypothetical Situation: If the President issues such a notification, the Andaman and Nicobar Islands will not be governed by the provisions of Part IXB regarding co-operative societies. This could be due to unique administrative or socio-economic conditions in the territory that make the application of these provisions impractical or unnecessary. As a result, co-operative societies in the Andaman and Nicobar Islands would be governed by different rules or regulations as specified by the President.

### **Article 243ZT: Continuance of existing laws.**

- Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or

repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less.

### **Simplified act**

Despite what is said in this section, any law about co-operative societies that was in place in a State right before the Constitution (Ninety-seventh Amendment) Act, 2011 started, and that doesn't match with this section, will still be valid. This will continue until either a competent Legislature or authority changes or cancels it, or until one year passes from the start of the Amendment, whichever happens first.

Explanation using Example

Example 1:

In the state of Maharashtra, there was a law governing co-operative societies that required a minimum of 20 members to form a co-operative society. This law was in force before the Constitution (Ninety-seventh Amendment) Act, 2011, which introduced new provisions for co-operative societies under Part IXB of the Constitution of India. According to Article 243ZT, the existing Maharashtra law will continue to be valid until the state legislature amends it to align with the new constitutional provisions or until one year from the commencement of the amendment, whichever is earlier. If the state legislature does not amend the law within one year, the provisions of the new constitutional amendment will automatically override the old law.

Example 2:

In Karnataka, there was an existing law that allowed co-operative societies to hold elections for their managing committees every five years. After the Constitution (Ninety-seventh Amendment) Act, 2011, which mandates more frequent elections and other governance reforms, the old law in Karnataka will still be in effect until the state legislature updates it to comply with the new constitutional requirements or until one year from the commencement of the amendment, whichever comes first. If the state legislature fails to amend the law within the stipulated one-year period, the new constitutional provisions will take precedence, and the old law will become invalid.

## **PART X: THE SCHEDULED AND TRIBAL AREAS**

### **Article 244: Administration of Scheduled Areas and Tribal Areas.**

(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

### **Simplified act**

(1) The rules in the Fifth Schedule are for managing and controlling the areas and tribes listed as "Scheduled" in any State, except for Assam, Meghalaya, Tripura, and Mizoram.

(2) The rules in the Sixth Schedule are for managing the tribal areas in the States of Assam, Meghalaya, Tripura, and Mizoram.

Explanation using Example

Example 1:

Ravi is a member of a Scheduled Tribe living in a village within a Scheduled Area in the state of Madhya Pradesh. The local government wants to build a dam that will displace Ravi's village. According to the provisions of the Fifth Schedule, the government must consult the Tribal Advisory Council before making any decisions that affect the Scheduled Tribes. The council, which includes representatives from the Scheduled Tribes, reviews the proposal and suggests alternative solutions to minimize displacement and ensure fair compensation for the affected families.

Example 2:

Meera lives in a tribal area in the state of Meghalaya. The state government plans to introduce a new law that affects land ownership in her village. According to the provisions of the Sixth Schedule, the District Council, which has the authority to make laws on land, forest, and water resources in tribal areas, must first approve the new law. The District Council, composed of elected representatives from the tribal communities, reviews the proposed law and makes amendments to protect the traditional land rights of the tribal people before giving its approval.

**Article 244A: Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.**

## Article - Autonomous State within Assam

(1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and create therefor -

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular, -

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

## Simplified act

### Article - Autonomous State within Assam

(1) Despite what is written in the Constitution, Parliament can create an autonomous (self-governing) State within Assam. This new State can include all or part of the tribal areas listed in Part I of the table in paragraph 20 of the Sixth Schedule. Parliament can also set up:

(a) a body (group of people) that can be fully elected or partly elected and partly nominated to act as a Legislature (law-making body) for the autonomous State, or

(b) a Council of Ministers,

or both, with specific rules, powers, and duties as defined by the law.

(2) The law mentioned in clause (1) can specifically:

(a) list the subjects from the State List or the Concurrent List on which the Legislature of the autonomous State can make laws, either exclusively or alongside the Assam State Legislature;

(b) define the areas where the executive power (administrative authority) of the autonomous State will apply;

(c) arrange for any tax collected by Assam to be given to the autonomous State if the tax revenue comes from that area;

(d) state that any mention of a State in the Constitution should also include the autonomous State; and

(e) include any additional, related, or necessary provisions.

(3) Any changes to the law mentioned above, especially those related to the subjects in sub-clause (a) or (b) of clause (2), will only be valid if approved by at least two-thirds of the members present and voting in each House of Parliament.

(4) The law referred to in this article will not be considered an amendment to the Constitution under article 368, even if it changes or seems to change the Constitution.

Explanation using Example

### Example 1:

Scenario: Formation of an Autonomous State in Assam

Context: The Parliament of India decides to form an autonomous state within Assam to better manage the tribal areas and address their unique needs.

Application:

Formation of Autonomous State: The Parliament passes a law to create an autonomous state comprising the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule.

Creation of Legislature: The law establishes a body, partly elected and partly nominated, to function as the Legislature for the autonomous state. This body is responsible for making laws specific to the autonomous state.

Council of Ministers: The law also creates a Council of Ministers to execute the laws and manage the day-to-day administration of the autonomous state.

Outcome: The tribal areas within Assam now have their own autonomous state with a local Legislature and Council of Ministers, allowing for more tailored governance and development.

### Example 2:

Scenario: Taxation and Revenue Allocation in the Autonomous State

Context: The newly formed autonomous state within Assam needs to manage its finances and ensure adequate revenue for development projects.

Application:

Taxation Powers: The law specifies that the Legislature of the autonomous state has the power to make laws on certain matters listed in the State List or the Concurrent List, including taxation.

Revenue Allocation: The law provides that any tax levied by the State of Assam, which is attributable to the autonomous state, shall be assigned to the autonomous state. This ensures that the revenue generated within the autonomous state is used for its development.

Executive Powers: The law defines the matters with respect to which the executive power of the autonomous state shall extend, ensuring that the local

government has the authority to implement and manage these financial matters.

Outcome: The autonomous state has the financial autonomy to levy taxes and utilize the revenue for local development, leading to better resource management and economic growth in the tribal areas.

#### Example 3:

Scenario: Amendment of Laws Governing the Autonomous State

Context: After a few years, there is a need to amend the law governing the autonomous state to address new challenges and improve governance.

Application:

Amendment Process: An amendment to the law is proposed, which relates to the matters specified in sub-clause (a) or (b) of clause (2) of Article 244A.

Parliamentary Approval: The amendment must be passed in each House of Parliament by not less than two-thirds of the members present and voting.

Implementation: Once the amendment is passed with the required majority, it becomes effective and brings about the necessary changes to the governance of the autonomous state.

Outcome: The law governing the autonomous state is successfully amended to address new challenges, ensuring that the governance framework remains effective and responsive to the needs of the tribal areas.

#### Example 4:

Scenario: Interpretation of Constitutional References

Context: There is a legal dispute regarding whether certain constitutional provisions apply to the autonomous state.

Application:

Reference to Autonomous State: The law provides that any reference to a State in any article of the Constitution shall be construed as including a reference to the autonomous state.

Legal Interpretation: In resolving the dispute, the courts interpret the constitutional provisions to include the autonomous state, ensuring that the autonomous state is treated on par with other states in relevant matters.

Outcome: The legal dispute is resolved by interpreting the constitutional provisions to include the autonomous state, ensuring clarity and consistency in the application of the law.

## **PART XI: RELATIONS BETWEEN THE UNION AND THE STATES**

### **CHAPTER I: LEGISLATIVE RELATIONS**

Distribution of Legislative Powers

**Article 245: Extent of laws made by Parliament and by the Legislatures of States.**

(1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

#### **Simplified act**

(1) According to this Constitution, Parliament can create laws for all of India or any specific part of it. Similarly, the State Legislature can create laws for the entire state or any part of it.

(2) A law made by Parliament will not be considered invalid just because it applies outside of India.

Explanation using Example

Example 1:

Scenario: The Parliament of India passes a law regulating the use of plastic bags across the entire country.

Application of Article 245:

According to Article 245(1), the Parliament has the authority to make laws for the whole of India. Therefore, the law regulating plastic bags is valid and applicable throughout the country, including all states and union territories.



If a state like Maharashtra wants to implement stricter regulations on plastic bags within its territory, it can do so under the same Article, as the Legislature of a State may make laws for the whole or any part of the State.

Example 2:

Scenario: The Parliament of India enacts a law that affects Indian citizens living abroad, such as a law on taxation of income earned by Indian citizens in foreign countries.

Application of Article 245:

According to Article 245(2), no law made by Parliament shall be deemed invalid on the ground that it has extra-territorial operation. This means that the law on taxation of income earned by Indian citizens abroad is valid, even though it affects individuals outside the territory of India.

For instance, if an Indian citizen is working in the United States and earns income there, the Indian law on taxation can still apply to that income, and the citizen may be required to pay taxes to the Indian government.

**Article 246: Subject-matter of laws made by Parliament and by the Legislatures of States.**

(1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State \* \* \* also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State \* \* \* has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

246A

## Simplified act

(1) Despite what is said in points (2) and (3), only Parliament can make laws about the topics listed in List I of the Seventh Schedule (called the "Union List" in this Constitution).

(2) Despite what is said in point (3), both Parliament and, as long as it doesn't conflict with point (1), the Legislature of any State can make laws about the topics listed in List III of the Seventh Schedule (called the "Concurrent List" in this Constitution).

(3) As long as it doesn't conflict with points (1) and (2), the Legislature of any State has the sole power to make laws for that State or any part of it about the topics listed in List II of the Seventh Schedule (called the "State List" in this Constitution).

(4) Parliament can make laws about any topic for any part of India that is not included in a State, even if that topic is listed in the State List.

246A

Explanation using Example

Example 1:

Scenario: Regulation of Banking Services

Explanation: Banking is a subject listed under the Union List (List I) in the Seventh Schedule of the Constitution of India. According to Article 246(1), only the Parliament has the exclusive power to make laws regarding banking services.

Example: The Parliament of India enacts a law called the "Banking Regulation Act" to govern all banking activities across the country. A state government, say Maharashtra, cannot pass a law that contradicts or overrides the provisions of the Banking Regulation Act because banking falls under the Union List.

Example 2:

Scenario: Education Policies

Explanation: Education is a subject listed under the Concurrent List (List III) in the Seventh Schedule of the Constitution of India. According to Article 246(2),

both the Parliament and the State Legislatures have the power to make laws regarding education.

Example: The Parliament of India enacts a law called the "Right to Education Act" to ensure free and compulsory education for children. Simultaneously, the State Legislature of Tamil Nadu enacts a law to introduce additional educational programs specific to the state's needs. Both laws can coexist, but if there is any conflict between the two, the law made by the Parliament will prevail.

Example 3:

Scenario: Public Health and Sanitation

Explanation: Public health and sanitation are subjects listed under the State List (List II) in the Seventh Schedule of the Constitution of India. According to Article 246(3), the State Legislature has the exclusive power to make laws regarding public health and sanitation.

Example: The State Legislature of Kerala enacts a law called the "Kerala Public Health Act" to manage and regulate public health services within the state. The Parliament of India cannot pass a law that specifically targets public health and sanitation in Kerala, as it is a subject under the State List.

Example 4:

Scenario: Administration of Union Territories

Explanation: Union Territories are not included in any state and are directly governed by the Central Government. According to Article 246(4), the Parliament has the power to make laws for any part of the territory of India not included in a state, even if the matter is listed in the State List.

Example: The Parliament of India enacts a law called the "Delhi Municipal Corporation Act" to govern the municipal administration of the Union Territory of Delhi. The Delhi Legislative Assembly cannot pass a law that contradicts or overrides this Act, as Delhi is a Union Territory and falls under the direct legislative power of the Parliament.

### **Article 246A: Special provision with respect to goods and services tax.**

Article - Goods and Services Tax

(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation: The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

### **Simplified act**

#### Article - Goods and Services Tax

(1) Despite what is mentioned in articles 246 and 254, both the Parliament and the State Legislatures have the authority to create laws about the goods and services tax (GST) that is imposed by the Union or the State.

(2) Only the Parliament has the authority to create laws about the goods and services tax when the supply of goods or services happens between different states.

Explanation: The rules in this article about the goods and services tax mentioned in clause (5) of article 279A will start from the date recommended by the Goods and Services Tax Council.

#### Explanation using Example

##### Example 1:

Rajesh owns a small business in Maharashtra that sells handmade crafts. He sells his products both within Maharashtra and to other states like Gujarat and Karnataka. According to Article 246A:

For sales within Maharashtra, the Maharashtra State Legislature has the power to make laws regarding the Goods and Services Tax (GST) applicable to Rajesh's sales.

For sales to Gujarat and Karnataka, the Parliament of India has the exclusive power to make laws regarding the GST applicable to these inter-state transactions.

This means Rajesh needs to comply with both state GST laws for intra-state sales and central GST laws for inter-state sales.

Example 2:

Priya runs an online tutoring service based in Delhi, offering classes to students across India. According to Article 246A:

For services provided to students within Delhi, the Delhi State Legislature has the power to make laws regarding the GST applicable to Priya's services.

For services provided to students in other states like Uttar Pradesh and Haryana, the Parliament of India has the exclusive power to make laws regarding the GST applicable to these inter-state services.

Priya must ensure she adheres to both state GST laws for services within Delhi and central GST laws for services provided to students in other states.

**Article 247: Power of Parliament to provide for the establishment of certain additional courts.**

Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing laws with respect to a matter enumerated in the Union List.

**Simplified act**

Despite what is written in this Chapter, Parliament can create new courts if needed.

These new courts can help in better managing the laws made by Parliament.

They can also help in managing any existing laws related to topics listed in the Union List.

Explanation using Example

Example 1:

The Indian Parliament notices that the existing courts in Delhi are overwhelmed with cases related to cybercrimes, which are increasing rapidly. To ensure faster and more efficient handling of these cases, Parliament enacts a law to establish a special Cybercrime Court in Delhi. This court will exclusively handle cases related to cybercrimes, which are listed under the

Union List. This move helps in the better administration of laws related to cybercrimes, ensuring quicker resolutions and reducing the burden on existing courts.

Example 2:

In the state of Maharashtra, there is a significant backlog of cases related to tax evasion and financial fraud. Recognizing the need for specialized judicial intervention, the Indian Parliament passes a law to set up an additional Economic Offenses Court in Mumbai. This court is tasked with handling cases specifically related to economic offenses, which are also part of the Union List. The establishment of this court aims to expedite the legal process for financial crimes, thereby improving the overall administration of justice in this domain.

### **Article 248: Residuary powers of legislation.**

- (1) Subject to article 246A, Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.
- (2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

### **Simplified act**

- (1) According to article 246A, only the Parliament has the authority to create laws about any topic that is not listed in the Concurrent List or the State List.
- (2) This authority also includes the ability to create laws that impose taxes not mentioned in either of those Lists.

Explanation using Example

Example 1:

The Indian Parliament decides to create a new law regulating the use of drones for commercial purposes. Since the regulation of drones is not specifically mentioned in the Concurrent List or the State List, Parliament has the exclusive power to legislate on this matter under Article 248. This means that individual states cannot create their own laws regarding the commercial use of drones; only the central government can do so.

Example 2:

The central government wants to introduce a new tax on digital transactions to curb black money and increase transparency in financial dealings. Since this specific type of tax is not mentioned in either the Concurrent List or the State List, Parliament has the exclusive authority to impose such a tax under Article 248. This ensures a uniform tax policy across the entire country, preventing individual states from having different tax rates or rules for digital transactions.

**Article 249: Power of Parliament to legislate with respect to a matter in the State List in the national interest.**

Article 246A - Goods and Services Tax

(1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to goods and services tax provided under article 246A or any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

**Simplified act**

Article 246A - Goods and Services Tax

(1) Despite what is mentioned in the earlier parts of this Chapter, if the Council of States (Rajya Sabha) passes a resolution with at least two-thirds of the members present and voting in favor, stating that it is necessary or beneficial

for the country that Parliament should make laws about goods and services tax (GST) or any matter listed in the State List mentioned in the resolution, then Parliament is allowed to make laws for the whole or any part of India on that matter as long as the resolution is in effect.

(2) A resolution passed under clause (1) will remain valid for a period not exceeding one year, as specified in the resolution:

Provided that, if another resolution is passed in the same manner as mentioned in clause (1) to extend the validity of the original resolution, then the original resolution will continue to be valid for an additional one year from the date it would have otherwise expired.

(3) A law made by Parliament, which it would not have been able to make without the resolution passed under clause (1), will stop being effective six months after the resolution has expired, except for actions taken or not taken before the end of that six-month period.

Explanation using Example

Example 1:

Scenario: The Parliament decides to implement a uniform Goods and Services Tax (GST) across India to streamline the tax system and boost the economy.

Situation: The Council of States (Rajya Sabha) passes a resolution with a two-thirds majority, stating that it is in the national interest for the Parliament to legislate on GST, which is typically a matter for the State List.

Action: Based on this resolution, the Parliament enacts a law to implement GST across all states in India, overriding the individual state laws on the matter.

Outcome: The GST law remains in force for one year. If the Council of States passes another resolution before the end of the year, the law continues for another year. If no further resolution is passed, the law ceases to be effective six months after the initial resolution expires, except for actions already taken under the law.

Example 2:

Scenario: There is a severe drought affecting multiple states in India, and the central government believes that a coordinated national policy on water management is necessary.



Situation: The Council of States passes a resolution with a two-thirds majority, declaring that it is expedient in the national interest for the Parliament to legislate on water management, a subject typically under the State List.

Action: The Parliament enacts a comprehensive water management law to address the drought situation, ensuring uniform policies and resource allocation across the affected states.

Outcome: The water management law remains in force for one year. If the Council of States passes another resolution before the end of the year, the law continues for another year. If no further resolution is passed, the law ceases to be effective six months after the initial resolution expires, except for actions already taken under the law.

**Article 250: Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.**

(1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to goods and services tax provided under article 246A or any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

**Simplified act**

(1) Even if other parts of this Chapter say otherwise, when there is an Emergency declared, Parliament has the power to make laws about goods and services tax for all or any part of India. This includes matters usually handled by the states.

(2) If Parliament makes a law during an Emergency that it normally wouldn't be allowed to make, that law will stop being valid six months after the Emergency ends. However, anything done or not done under that law before it stops being valid will still count.

Explanation using Example

Example 1:

During a severe national crisis, such as a large-scale terrorist attack, the President of India declares a Proclamation of Emergency. Under normal circumstances, the regulation of police forces is a matter listed in the State List, meaning only state legislatures can make laws about it. However, due to the emergency, Parliament enacts a law to standardize police operations across all states to ensure a coordinated and effective response to the terrorist threat. This law remains in effect during the emergency and for six months after the emergency ends, unless it is repealed or replaced by state legislation.

Example 2:

Imagine a situation where a severe natural disaster, like a massive earthquake, strikes multiple states in India, leading to the declaration of a Proclamation of Emergency. Normally, matters related to public health and sanitation are within the jurisdiction of state governments. However, given the scale of the disaster, Parliament passes a law to manage and coordinate disaster relief efforts, including the distribution of medical supplies and the establishment of temporary shelters across the affected states. This law is valid during the emergency and continues to be effective for six months after the emergency is lifted, ensuring that relief efforts are not abruptly halted.

**Article 251: Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.**

Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

**Simplified act**

Articles 249 and 250 do not stop a State Legislature from making laws that it is allowed to make under the Constitution.

However, if a State law conflicts with a law made by Parliament, the Parliament's law will take priority.

This means that the conflicting part of the State law will not be effective as long as the Parliament's law is in effect.

Explanation using Example

Example 1:

Scenario: The Parliament of India enacts a law under Article 249 to regulate the production and distribution of a particular agricultural product during a national emergency. This law includes specific guidelines on the use of pesticides and fertilizers.

State Law: The State Legislature of Punjab enacts its own law regulating the use of pesticides and fertilizers for the same agricultural product, which includes different guidelines that are less stringent than those set by the Parliament.

Outcome: Since the law made by the Parliament under Article 249 is in effect, the guidelines set by the Parliament will prevail over the State law. The less stringent guidelines set by the Punjab Legislature will be inoperative to the extent of their inconsistency with the Parliamentary law.

Example 2:

Scenario: The Parliament of India enacts a law under Article 250 to manage public health during a national emergency, which includes specific provisions for quarantine measures and the distribution of medical supplies.

State Law: The State Legislature of Maharashtra enacts its own public health law that includes different quarantine measures and distribution protocols for medical supplies.

Outcome: Given that the Parliamentary law under Article 250 is in effect, the quarantine measures and distribution protocols set by the Parliament will take precedence over those set by the Maharashtra Legislature. The State law will be inoperative to the extent that it conflicts with the Parliamentary law, as long as the Parliamentary law remains in effect.

**Article 252: Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.**

(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in

such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

### **Simplified act**

(1) If the legislatures of two or more states think it's a good idea for Parliament to make laws about certain matters that Parliament usually can't make laws about (except in special cases mentioned in articles 249 and 250), and if all the houses of those state legislatures agree and pass resolutions saying so, then Parliament can make a law about that matter. This law will apply to those states and any other state that later agrees to it by passing a resolution in its legislature.

(2) Any law made by Parliament under this rule can be changed or canceled by another law made by Parliament in the same way. However, the state legislatures themselves cannot change or cancel this law for their own state.

Explanation using Example

Example 1:

Scenario: Water Management Legislation

Context: The states of Maharashtra and Gujarat are facing severe water management issues due to recurring droughts. Both states realize that a uniform water management policy would be beneficial.

Application:

The legislatures of Maharashtra and Gujarat pass resolutions stating that it is desirable for the Parliament to create a law regulating water management.

Parliament then drafts and passes a comprehensive Water Management Act that applies to both Maharashtra and Gujarat.

Later, the state of Rajasthan, also facing similar issues, decides to adopt this Water Management Act. The Rajasthan legislature passes a resolution to this effect.

The Water Management Act now applies to Maharashtra, Gujarat, and Rajasthan.

Outcome: This ensures a uniform approach to water management across these states, facilitating better resource sharing and management.

Example 2:

Scenario: Uniform Traffic Regulations

Context: The states of Karnataka and Tamil Nadu are experiencing issues with traffic management due to differing traffic laws, causing confusion for commuters and transporters.

Application:

The legislatures of Karnataka and Tamil Nadu pass resolutions requesting the Parliament to create a uniform traffic regulation law.

Parliament enacts the Uniform Traffic Regulation Act, which standardizes traffic rules and penalties across these states.

The state of Kerala, observing the benefits of uniform traffic regulations, decides to adopt the same Act. The Kerala legislature passes a resolution to adopt the Uniform Traffic Regulation Act.

The Uniform Traffic Regulation Act now applies to Karnataka, Tamil Nadu, and Kerala.

Outcome: This leads to consistent traffic rules across these states, reducing confusion and improving road safety.

Example 3:

Scenario: Environmental Protection Law

Context: The states of Punjab and Haryana are dealing with severe air pollution issues due to stubble burning and industrial emissions. They recognize the need for a unified approach to tackle this problem.

Application:

The legislatures of Punjab and Haryana pass resolutions indicating that it is desirable for the Parliament to create a law addressing air pollution.

Parliament enacts the Air Quality Management Act, which sets uniform standards and regulations for air quality control in these states.

The state of Uttar Pradesh, facing similar air pollution issues, decides to adopt the Air Quality Management Act. The Uttar Pradesh legislature passes a resolution to this effect.

The Air Quality Management Act now applies to Punjab, Haryana, and Uttar Pradesh.

Outcome: This ensures a coordinated effort to combat air pollution, leading to better environmental protection across these states.

### **Article 253: Legislation for giving effect to international agreements.**

Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

### **Simplified act**

Despite what is mentioned in the earlier parts of this Chapter,

Parliament has the authority to create laws for all or any part of India

to put into action any treaty, agreement, or convention with other countries

or any decision made at an international conference, association, or other group.

Explanation using Example

Example 1:

India signs an international treaty on climate change with several other countries. The treaty requires all signatory countries to reduce their carbon emissions by a certain percentage within a specified timeframe. To implement this treaty, the Indian Parliament enacts a new law called the "Climate Change Mitigation Act." This law sets forth regulations and guidelines for industries to reduce their carbon emissions, imposes penalties for non-compliance, and

establishes a monitoring body to oversee the implementation of these measures across the country. Despite environmental regulations typically being a state subject, Parliament uses its power under Article 253 to ensure the treaty's obligations are met uniformly across all states.

#### Example 2:

India participates in an international conference on human trafficking and agrees to a convention that mandates stricter laws and better protection for victims. To fulfill this international commitment, the Indian Parliament passes the "Anti-Human Trafficking Act." This act includes provisions for harsher punishments for traffickers, comprehensive support systems for victims, and enhanced cooperation between states and international bodies. Even though law enforcement is generally a state matter, Parliament exercises its authority under Article 253 to create a cohesive national framework to combat human trafficking, ensuring that India's international obligations are met.

#### **Article 254: Inconsistency between laws made by Parliament and laws made by the Legislatures of States.**

(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

#### **Simplified act**

(1) If a state law conflicts with a national law that Parliament has the power to make, or with an existing law on a topic listed in the Concurrent List, then, unless stated otherwise in clause (2), the national law will take precedence. This means the conflicting part of the state law will be invalid.

(2) If a state law on a topic in the Concurrent List conflicts with an earlier national law or an existing law on the same topic, the state law will take precedence in that state only if it has been approved by the President.

However, this does not stop Parliament from making a new law on the same topic at any time, which can add to, change, or cancel the state law.

### Explanation using Example

#### Example 1:

##### Scenario: Alcohol Regulation

Context: The Parliament of India enacts a law that sets the legal drinking age at 21 years across the country. However, the State Legislature of Maharashtra passes a law that sets the legal drinking age at 25 years.

##### Application of Article 254:

Repugnancy: There is a conflict between the state law (Maharashtra's law) and the central law (Parliament's law) regarding the legal drinking age.

Prevailing Law: According to Article 254(1), the central law made by Parliament will prevail, and the state law will be void to the extent of the repugnancy. Therefore, the legal drinking age in Maharashtra will be 21 years, as per the central law.

#### Example 2:

##### Scenario: Labour Laws

Context: The Parliament of India enacts a law that mandates a minimum wage of ₹10,000 per month for all workers in the country. The State Legislature of Tamil Nadu passes a law that mandates a minimum wage of ₹12,000 per month for workers in the state.

##### Application of Article 254:

Repugnancy: There is a conflict between the state law (Tamil Nadu's law) and the central law (Parliament's law) regarding the minimum wage.



**President's Assent:** If the Tamil Nadu law has been reserved for the consideration of the President and has received his assent, then according to Article 254(2), the state law will prevail in Tamil Nadu. Therefore, the minimum wage in Tamil Nadu will be ₹12,000 per month.

**Parliament's Power:** However, Parliament retains the power to enact a new law at any time that can amend, vary, or repeal the state law, thereby potentially changing the minimum wage again.

### Example 3:

#### Scenario: Environmental Regulations

**Context:** The Parliament of India enacts a law that allows the use of certain pesticides across the country. The State Legislature of Kerala passes a law that bans the use of these pesticides within the state due to environmental concerns.

#### Application of Article 254:

**Repugnancy:** There is a conflict between the state law (Kerala's law) and the central law (Parliament's law) regarding the use of pesticides.

**Prevailing Law:** According to Article 254(1), the central law made by Parliament will prevail, and the state law will be void to the extent of the repugnancy. Therefore, the use of the specified pesticides will be allowed in Kerala as per the central law.

**President's Assent:** If the Kerala law has been reserved for the consideration of the President and has received his assent, then according to Article 254(2), the state law will prevail in Kerala, and the use of the specified pesticides will be banned in the state.

**Parliament's Power:** Parliament can still enact a new law at any time to amend, vary, or repeal the state law, potentially allowing the use of the pesticides again.

### Example 4:

#### Scenario: Education Policy

**Context:** The Parliament of India enacts a law that mandates English as a compulsory subject in all schools across the country. The State Legislature of

West Bengal passes a law that makes Bengali the compulsory subject instead of English in schools within the state.

Application of Article 254:

Repugnancy: There is a conflict between the state law (West Bengal's law) and the central law (Parliament's law) regarding the compulsory subject in schools.

Prevailing Law: According to Article 254(1), the central law made by Parliament will prevail, and the state law will be void to the extent of the repugnancy. Therefore, English will be the compulsory subject in schools in West Bengal as per the central law.

President's Assent: If the West Bengal law has been reserved for the consideration of the President and has received his assent, then according to Article 254(2), the state law will prevail in West Bengal, and Bengali will be the compulsory subject in schools within the state.

Parliament's Power: Parliament can still enact a new law at any time to amend, vary, or repeal the state law, potentially making English the compulsory subject again.

**Article 255: Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.**

- No Act of Parliament or of the Legislature of a State \* \* \*, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given -

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;

(c) where the recommendation or previous sanction required was that of the President, by the President.

**Simplified act**

No law made by Parliament or a State Legislature, and no part of such a law, will be considered invalid just because a required recommendation or approval was not given, as long as the law was approved in the following ways:

- (a) If the recommendation needed was from the Governor, it can be approved either by the Governor or the President;
- (b) If the recommendation needed was from the Rajpramukh, it can be approved either by the Rajpramukh or the President;
- (c) If the recommendation or approval needed was from the President, it must be approved by the President.

#### Explanation using Example

##### Example 1:

Scenario: The State Legislature of Maharashtra passes a new law regarding the regulation of agricultural markets. According to the Constitution, this law requires the recommendation of the Governor before it can be introduced in the Legislature. However, the law is introduced and passed without the Governor's recommendation.

Application of Article 255: Despite the lack of the Governor's recommendation, the law is not invalidated because the President of India later gives assent to the law. According to Article 255, the requirement of the Governor's recommendation is considered a procedural matter, and the President's assent validates the law.

##### Example 2:

Scenario: The Parliament of India passes a law related to the distribution of water resources between states. This law requires the previous sanction of the President before it can be introduced. However, the law is introduced and passed without obtaining the President's previous sanction.

Application of Article 255: Even though the law was introduced without the President's previous sanction, it is not invalidated because the President later gives assent to the law. Article 255 ensures that the absence of the President's previous sanction is treated as a procedural issue, and the President's subsequent assent makes the law valid.

##### Example 3:

Scenario: The State Legislature of Tamil Nadu enacts a law concerning the regulation of public health services. The Constitution requires the recommendation of the Rajpramukh (a historical title for the head of a state)

before such a law can be introduced. The law is introduced and passed without the Rajpramukh's recommendation.

Application of Article 255: Although the law was introduced without the Rajpramukh's recommendation, it is not invalidated because the President of India later gives assent to the law. Under Article 255, the requirement of the Rajpramukh's recommendation is considered a procedural matter, and the President's assent validates the law.

## **PART XI: RELATIONS BETWEEN THE UNION AND THE STATES**

### **CHAPTER II: ADMINISTRATIVE RELATIONS GENERAL**

#### **Article 256: Obligation of States and the Union.**

The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

#### **Simplified act**

The government of each State must use its power to make sure that the laws made by Parliament and any other existing laws that apply in that State are followed. The central government of India has the authority to give instructions to a State if it thinks it is necessary to ensure these laws are followed.

Explanation using Example

Example 1:

Scenario: The Parliament of India passes a law requiring all states to implement a new education policy that mandates free and compulsory education for children aged 6 to 14 years.

Application: The executive power of each state must be exercised to ensure that this new education policy is implemented within their jurisdiction. This means that state governments need to allocate resources, set up necessary infrastructure, and take administrative actions to comply with the law passed by Parliament. If a state fails to implement the policy, the Union Government can issue directions to the state to ensure compliance.

Example 2:

Scenario: The Parliament enacts a law to regulate the sale and distribution of a particular drug to prevent its misuse. This law applies to all states in India.

Application: Each state government must exercise its executive power to enforce this law within its territory. This could involve setting up regulatory bodies, conducting inspections, and taking action against violators. If a state is not effectively enforcing the law, the Union Government can step in and issue directives to the state government to take necessary actions to ensure the law is followed.

#### Example 3:

Scenario: The Parliament passes a law to protect the environment by regulating industrial emissions. This law is applicable across all states.

Application: State governments must ensure that industries within their jurisdiction comply with the new environmental regulations. This may involve monitoring industrial activities, issuing permits, and taking punitive actions against non-compliant industries. If a state is lax in enforcing these regulations, the Union Government can direct the state to take specific measures to ensure compliance with the law.

#### Example 4:

Scenario: The Parliament enacts a law to improve public health by banning the sale of certain harmful substances, such as tobacco products near educational institutions.

Application: State governments are required to enforce this ban within their territories. This could involve conducting regular checks, imposing fines, and taking legal action against violators. If a state is not effectively implementing the ban, the Union Government can issue directives to the state to ensure that the law is enforced properly.

### **Article 257: Control of the Union over States in certain cases.**

#### Executive Power of States and Union

(1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive

power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

### **Simplified act**

#### Executive Power of States and Union

(1) The executive power of every State should be used in a way that does not interfere with or harm the executive power of the Union (central government). The Union has the authority to give directions to a State if it thinks it is necessary.

(2) The Union can also give directions to a State about building and maintaining important communication routes, like roads and railways, that are considered important for the nation or military.

However, this does not limit Parliament's power to declare certain highways or waterways as national highways or national waterways. It also does not limit

the Union's power to build and maintain communication routes for naval, military, and air force purposes.

(3) The Union can give directions to a State on what measures to take to protect the railways within the State.

(4) If following the Union's directions about building or maintaining communication routes or protecting railways costs the State more than it would normally spend, the Government of India will pay the extra costs. The amount will be agreed upon by both parties, or if they can't agree, it will be decided by an arbitrator appointed by the Chief Justice of India.

Explanation using Example

Example 1:

Scenario: National Highway Construction

The Government of India decides to construct a new national highway that will pass through multiple states, including the state of Maharashtra. The highway is deemed to be of national importance for improving connectivity and boosting economic activities.

Application of Article 257:

The Union Government issues a direction to the Maharashtra state government to assist in the construction and maintenance of the highway.

The state government must ensure that its executive power does not impede the construction process.

If the state incurs additional costs due to this direction, such as land acquisition or additional infrastructure development, the Government of India will compensate Maharashtra for these extra costs. If there is a disagreement on the amount, an arbitrator appointed by the Chief Justice of India will determine the compensation.

Example 2:

Scenario: Protection of Railways

There have been several incidents of vandalism and theft on railway properties in the state of West Bengal, affecting the safety and efficiency of railway operations.

Application of Article 257:

The Union Government directs the West Bengal state government to implement specific security measures to protect the railways within the state.

The state government must comply with these directions and take necessary actions, such as increasing police patrols or installing surveillance systems.

If the state incurs additional costs beyond its normal duties due to these security measures, the Government of India will reimburse West Bengal for the extra expenses. If there is a dispute over the reimbursement amount, an arbitrator appointed by the Chief Justice of India will resolve the issue.

Example 3:

Scenario: Maintenance of Communication Infrastructure

The Union Government identifies a particular bridge in the state of Kerala as being of military importance, crucial for the movement of defense personnel and equipment.

Application of Article 257:

The Union Government directs the Kerala state government to prioritize the maintenance and repair of this bridge.

The state government must ensure that its executive actions do not hinder the maintenance work and must comply with the Union's directions.

If Kerala incurs additional costs for maintaining the bridge as per the Union's directions, the Government of India will compensate the state for these extra expenses. If there is no agreement on the compensation amount, an arbitrator appointed by the Chief Justice of India will determine the appropriate sum.

Example 4:

Scenario: Declaring a Waterway as National Waterway

The Union Government decides to declare a major river in the state of Assam as a national waterway to enhance inland water transport and boost trade.

Application of Article 257:

The Union Government issues a direction to the Assam state government to assist in the development and maintenance of the waterway.



The state government must ensure that its executive power does not obstruct the development process.

If Assam incurs additional costs due to this direction, such as dredging the river or building new infrastructure, the Government of India will compensate the state for these extra costs. If there is a disagreement on the amount, an arbitrator appointed by the Chief Justice of India will determine the compensation.

**Article 257A: Assistance to States by deployment of armed forces or other forces of the Union: Omitted.**

Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 33 (with effect from 20-6-1979).

**Simplified act**

Removed by the Constitution (Forty-fourth Amendment) Act, 1978, section 33 (effective from June 20, 1979).

Explanation using Example

Example 1:

Before the Forty-fourth Amendment in 1978, imagine a situation where a state in India was facing severe internal disturbances, such as widespread riots or a breakdown of law and order. The state government was unable to control the situation with its own police force. Under Article 257A, the central government could have deployed the armed forces or other Union forces to assist the state in restoring order. For instance, if there were violent clashes in a state capital, the central government could send in the army to help the local police restore peace and protect citizens.

Example 2:

Consider a hypothetical scenario where a natural disaster, like a massive flood, hits a state, and the state government is overwhelmed by the scale of the disaster. Before the omission of Article 257A, the central government could have deployed the National Disaster Response Force (NDRF) or even the armed forces to assist in rescue and relief operations. This would include tasks like evacuating people, providing medical aid, and distributing food and water. The central government's intervention would ensure that the state received the necessary support to manage the crisis effectively.

**Article 258: Power of the Union to confer powers, etc., on States in certain cases.**

(1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

**Simplified act**

(1) Despite what is written in the Constitution, the President can, with the agreement of a State's Government, give that Government or its officers certain responsibilities related to matters that the Union Government is in charge of. This can be done with or without conditions.

(2) Even if a State's Legislature does not have the power to make laws on a certain matter, a law made by Parliament that applies in that State can give powers and responsibilities to the State or its officers and authorities.

(3) If a State or its officers and authorities are given powers and responsibilities under this article, the Government of India must pay the State for any extra administrative costs. The amount to be paid will be agreed upon, or if there is no agreement, it will be decided by an arbitrator appointed by the Chief Justice of India.

Explanation using Example

Example 1:

The central government wants to implement a new health initiative aimed at eradicating a particular disease across India. However, health is a subject that falls under the State List, meaning individual states have the primary responsibility for health-related matters.

Scenario: The President of India, with the consent of the Government of Maharashtra, entrusts the state government with the responsibility of implementing this health initiative. The central government provides the necessary funds and resources, but the execution is carried out by the state health department.

Application: Under Article 258(1), the President can delegate this responsibility to the state government, even though health is primarily a state matter. This delegation can be conditional (e.g., the state must follow certain guidelines) or unconditional.

#### Example 2:

The Parliament of India passes a law to improve national security by enhancing surveillance and intelligence gathering. Normally, law and order is a state subject, but this new law requires the cooperation of state police forces to be effective.

Scenario: The new law, passed by Parliament, mandates that state police officers in West Bengal must assist central intelligence agencies in gathering and sharing information related to national security threats. This law also imposes certain duties on state police officers, such as reporting suspicious activities to central agencies.

Application: According to Article 258(2), even though the state legislature does not have the power to make laws on national security, the Parliament can confer powers and impose duties on state officers to ensure the law is implemented effectively.

#### Example 3:

The central government introduces a new agricultural subsidy program to support farmers across the country. Agriculture is primarily a state subject, but the central government wants uniform implementation of this program.

Scenario: The President, with the consent of the Government of Punjab, entrusts the state agricultural department with the task of distributing

subsidies to farmers. The central government provides the funds, but the state government handles the administration and distribution.

Application: Under Article 258(1), the President can delegate this function to the state government, ensuring that the program is implemented uniformly while utilizing the state's administrative machinery.

Example 4:

The central government enacts a law to regulate the use of drones for commercial purposes, which requires coordination between central and state authorities.

Scenario: The new law requires state transport departments to issue permits for commercial drone operations and to enforce safety regulations. The law also provides for training state officials to handle these new responsibilities.

Application: As per Article 258(2), the Parliament can confer these powers and impose these duties on state officers, even though the state legislature does not have the authority to make laws on aviation, which is a central subject.

Example 5:

The central government decides to launch a nationwide literacy campaign to improve education standards. Education is a concurrent subject, meaning both the central and state governments can make laws on it.

Scenario: The President, with the consent of the Government of Bihar, entrusts the state education department with the task of implementing the literacy campaign. The central government provides the necessary funding and resources, while the state government executes the campaign.

Application: Under Article 258(1), the President can delegate this responsibility to the state government, ensuring that the literacy campaign is implemented effectively at the local level.

### **Article 258A: Power of the States to entrust functions to the Union.**

Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends.

## Simplified act

Even though the Constitution has its rules, the Governor of a State can, if the Government of India agrees, give some of the State's responsibilities to the Government of India or its officers. This can be done with or without any conditions.

Explanation using Example

Example 1:

The state of Maharashtra is facing a severe drought and needs immediate assistance in managing water resources. The Governor of Maharashtra, with the consent of the Government of India, decides to entrust the responsibility of managing the state's water resources to the Central Water Commission (a central government body). This means that the Central Water Commission will now handle the planning, distribution, and management of water resources in Maharashtra, either conditionally (with specific guidelines) or unconditionally (with full autonomy).

Example 2:

The state of Tamil Nadu wants to improve its public transportation system but lacks the expertise and resources to do so effectively. The Governor of Tamil Nadu, with the consent of the Government of India, entrusts the task of upgrading and managing the public transportation system to the Ministry of Road Transport and Highways (a central government ministry). This entrustment can be conditional, such as requiring the Ministry to follow certain state guidelines, or unconditional, giving the Ministry full control over the project.

**Article 259: Armed Forces in States in Part B of the First Schedule: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule

(with effect from 1-11-1956)

## Simplified act

Removed by the Constitution (Seventh Amendment) Act, 1956, Section 29 and Schedule

(This change took effect on November 1, 1956)

Explanation using Example

Example 1:

Ravi, a history student, is researching the administrative relations between the Union and the States in India. He comes across Article 259 in an old textbook, which mentions the deployment of armed forces in states listed in Part B of the First Schedule. However, when he checks the current Constitution of India, he finds that Article 259 has been omitted. This omission was made by the Constitution (Seventh Amendment) Act, 1956, which means that the provisions related to the deployment of armed forces in those specific states are no longer applicable. Ravi learns that the administrative structure and relations between the Union and the States have evolved since 1956, and the current legal framework does not include the previously mentioned Article 259.

Example 2:

Meena, a law student, is preparing for her constitutional law exam. She reads about the historical context of the Indian Constitution and learns that Part B states were former princely states that were integrated into India after independence. Initially, there were specific provisions for these states, including Article 259, which dealt with the deployment of armed forces. However, with the reorganization of states and the abolition of the distinction between Part A, Part B, and Part C states by the Constitution (Seventh Amendment) Act, 1956, Article 259 was omitted. This change reflects the unification and standardization of administrative relations across all states in India. Meena understands that the omission of Article 259 signifies the move towards a more cohesive and uniform administrative structure in the country.

**Article 260: Jurisdiction of the Union in relation to territories outside India.**

- The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

**Simplified act**

The Government of India can make an agreement with the government of any territory that is not part of India. Through this agreement, India can take on executive, legislative, or judicial responsibilities that belong to that territory's government. However, any such agreement must follow the current laws about exercising foreign jurisdiction.

Explanation using Example

Example 1:

The Government of India enters into an agreement with the Government of Bhutan to manage and operate a hydroelectric power project located in Bhutan. Under this agreement, India undertakes the executive function of overseeing the construction and maintenance of the project, the legislative function of setting safety and operational standards, and the judicial function of resolving disputes related to the project. This agreement is governed by the laws relating to foreign jurisdiction that are currently in force in India.

Example 2:

The Government of India signs an agreement with the Government of Mauritius to provide judicial assistance in handling cases related to financial fraud that involve Indian nationals residing in Mauritius. Under this agreement, Indian courts are authorized to hear and adjudicate these cases, and Indian law enforcement agencies are permitted to conduct investigations in Mauritius. This arrangement is subject to the existing laws in India that govern the exercise of foreign jurisdiction.

**Article 261: Public acts, records and judicial proceedings.**

(1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

**Simplified act**

(1) All public actions, records, and court decisions made by the central government and each state in India must be respected and recognized throughout the entire country.

(2) The way these actions, records, and court decisions are proven and their impact is decided will be determined by laws made by Parliament.

(3) Final decisions or orders given by civil courts anywhere in India can be enforced anywhere else in the country according to the law.

#### Explanation using Example

##### Example 1:

Ravi, a resident of Maharashtra, wins a civil lawsuit in a Maharashtra court against a company based in Karnataka. The court orders the company to pay Ravi a sum of ₹10 lakhs. According to Article 261, Ravi can enforce this judgment in Karnataka without having to file a new lawsuit there. The Karnataka authorities are required to give full faith and credit to the Maharashtra court's judgment and assist Ravi in executing the order.

##### Example 2:

Priya, who lives in Tamil Nadu, gets married in a civil ceremony in Delhi. Later, she needs to prove her marriage in Tamil Nadu for some legal proceedings. According to Article 261, the marriage certificate issued by the Delhi authorities must be recognized and accepted by the Tamil Nadu authorities without any additional verification. This ensures that Priya does not face any legal hurdles in proving her marriage across different states.

##### Example 3:

A company based in Gujarat enters into a contract with a supplier in West Bengal. The contract is notarized and registered in Gujarat. Later, a dispute arises, and the supplier challenges the validity of the contract in a West Bengal court. According to Article 261, the notarized and registered contract from Gujarat must be given full faith and credit by the West Bengal court, ensuring that the contract's validity is upheld without requiring additional proof.

##### Example 4:

An individual named Anil from Kerala obtains a legal name change through a court order in Kerala. Later, Anil moves to Punjab and needs to update his name on various official documents. According to Article 261, the court order



from Kerala must be recognized by the authorities in Punjab, allowing Anil to update his name without having to go through the name change process again in Punjab.

### **Disputes relating to Waters**

#### **Article 262: Co-ordination between States Adjudication of disputes relating to waters of inter-State rivers or river valleys.**

(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

Co-ordination between States

#### **Simplified act**

(1) Parliament can make laws to settle any arguments or complaints about how the water from rivers that flow through more than one state is used, shared, or controlled.

(2) Even though the Constitution usually allows courts to handle disputes, Parliament can make laws that prevent the Supreme Court or any other court from dealing with the arguments or complaints mentioned in point (1).

Co-ordination between States

Explanation using Example

Example 1:

Scenario: The states of Karnataka and Tamil Nadu are in dispute over the sharing of water from the Cauvery River, which flows through both states.

Application of Article 262:

Parliamentary Intervention: The Parliament enacts a law to establish the Cauvery Water Disputes Tribunal to adjudicate the dispute between Karnataka and Tamil Nadu regarding the use, distribution, and control of the Cauvery River waters.

**Exclusion of Judiciary:** According to the law enacted by Parliament, the Supreme Court and other courts are barred from exercising jurisdiction over the dispute. This means that the Tribunal's decision is final and binding on both states, and they cannot appeal to the Supreme Court or any other court.

**Example 2:**

**Scenario:** The states of Punjab and Haryana are in conflict over the allocation of water from the Sutlej-Yamuna Link (SYL) canal, which is meant to distribute water from the Sutlej River to both states.

**Application of Article 262:**

**Parliamentary Intervention:** The Parliament passes a law to create the Sutlej-Yamuna Link Water Disputes Tribunal to resolve the conflict between Punjab and Haryana regarding the water distribution from the SYL canal.

**Exclusion of Judiciary:** The law specifies that the Supreme Court and other courts do not have the authority to hear cases related to this dispute. As a result, the Tribunal's ruling on the matter is conclusive, and the states must comply with its decision without seeking further judicial intervention.

**Example 3:**

**Scenario:** The states of Maharashtra and Gujarat are in disagreement over the water sharing from the Narmada River, which flows through both states and is crucial for their irrigation and drinking water needs.

**Application of Article 262:**

**Parliamentary Intervention:** The Parliament enacts legislation to form the Narmada Water Disputes Tribunal to address the issues between Maharashtra and Gujarat concerning the Narmada River's water usage and distribution.

**Exclusion of Judiciary:** The enacted law includes a provision that prevents the Supreme Court and other courts from having jurisdiction over the dispute. This ensures that the Tribunal's decision is the final authority on the matter, and the states must adhere to its ruling without seeking recourse in the judiciary.

**Example 4:**

**Scenario:** The states of Andhra Pradesh and Telangana are in conflict over the sharing of water from the Krishna River, which is vital for their agricultural and industrial activities.

Application of Article 262:

Parliamentary Intervention: The Parliament passes a law to establish the Krishna Water Disputes Tribunal to adjudicate the dispute between Andhra Pradesh and Telangana regarding the Krishna River's water allocation.

Exclusion of Judiciary: The law stipulates that the Supreme Court and other courts cannot exercise jurisdiction over the dispute. Consequently, the Tribunal's decision is binding on both states, and they cannot challenge it in the judiciary.

Example 5:

Scenario: The states of Uttar Pradesh and Bihar are in disagreement over the water sharing from the Ganga River, which is essential for their irrigation and drinking water supply.

Application of Article 262:

Parliamentary Intervention: The Parliament enacts a law to create the Ganga Water Disputes Tribunal to resolve the conflict between Uttar Pradesh and Bihar regarding the Ganga River's water usage and distribution.

Exclusion of Judiciary: The law includes a provision that bars the Supreme Court and other courts from having jurisdiction over the dispute. This ensures that the Tribunal's decision is final and binding on both states, and they must comply with its ruling without seeking further judicial intervention.

### **Article 263: Provisions with respect to an inter-State Council.**

If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of:

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

### **Simplified act**

If at any time the President thinks that creating a Council would benefit the public by:

- (a) looking into and giving advice on disagreements between States;
- (b) investigating and talking about topics that interest some or all States, or both the Union and one or more States; or
- (c) making suggestions on any such topic, especially for better coordination of policies and actions related to that topic,

the President can officially set up such a Council. The President will also decide what the Council's duties will be and how it will be organized and run.

Explanation using Example

Example 1:

Scenario: Water Dispute between Karnataka and Tamil Nadu

Context: Karnataka and Tamil Nadu have a long-standing dispute over the sharing of the Cauvery River water. The dispute has led to tensions and protests in both states.

Application of Article 263: The President of India, recognizing the public interest in resolving this dispute, decides to establish an inter-State Council. The Council is tasked with:

- (a) Inquiring into the water-sharing dispute between Karnataka and Tamil Nadu.
- (b) Investigating and discussing the water needs and usage patterns of both states.
- (c) Making recommendations for a fair and equitable distribution of the Cauvery River water, and suggesting measures for better coordination of water management policies between the two states.

The Council conducts a thorough investigation, holds discussions with representatives from both states, and ultimately provides recommendations that help in resolving the dispute amicably.

#### Example 2:

##### Scenario: Coordination of Health Policies during a Pandemic

Context: During a pandemic, different states in India have varying health policies and measures, leading to confusion and inefficiencies in handling the crisis.

Application of Article 263: The President of India, seeing the need for a coordinated response to the pandemic, establishes an inter-State Council. The Council is tasked with:

- (a) Investigating and discussing the health policies and measures adopted by different states.
- (b) Advising on best practices and strategies that can be uniformly implemented across states.
- (c) Making recommendations for better coordination of health policies and actions, ensuring a unified and effective response to the pandemic.

The Council brings together health officials from various states, facilitates discussions on effective measures, and provides a set of coordinated guidelines that help in managing the pandemic more efficiently across the country.

#### Example 3:

##### Scenario: Infrastructure Development Coordination

Context: Multiple states in India are planning to develop a major highway that will pass through their territories. However, there are disagreements on the alignment, funding, and execution of the project.

Application of Article 263: The President of India, recognizing the importance of the highway for national connectivity and economic growth, establishes an inter-State Council. The Council is tasked with:

- (a) Inquiring into the disputes and disagreements between the states regarding the highway project.

(b) Investigating and discussing the interests and concerns of each state involved in the project.

(c) Making recommendations for the alignment, funding, and execution of the highway project, ensuring that the interests of all states are balanced and the project is completed efficiently.

The Council facilitates discussions between the states, addresses their concerns, and provides a comprehensive plan that is acceptable to all parties, leading to the successful development of the highway.

Example 4:

Scenario: Environmental Conservation Efforts

Context: Several states in India share a common forest area that is facing severe deforestation and environmental degradation. Each state has different policies and levels of enforcement, leading to ineffective conservation efforts.

Application of Article 263: The President of India, understanding the need for a unified approach to environmental conservation, establishes an inter-State Council. The Council is tasked with:

(a) Investigating the current state of the shared forest area and the policies of each state.

(b) Discussing the common interests of the states in preserving the forest and the challenges they face.

(c) Making recommendations for a coordinated conservation strategy, including uniform policies, joint enforcement mechanisms, and shared responsibilities.

The Council brings together environmental experts and officials from the states, facilitates the creation of a joint conservation plan, and ensures that all states work together to protect and restore the forest area.

## **PART XII: FINANCE, PROPERTY, CONTRACTS AND SUITS**

### **CHAPTER I: FINANCE**

## **General**

### **Article 264: Interpretation.**

In this Part, "Finance Commission" means a Finance Commission constituted under article 280.

### **Article 265: Taxes not to be imposed save by authority of law.**

No tax shall be levied or collected except by authority of law.

### **Article 266: Consolidated Funds and public accounts of India and of the States.**

(1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

### **Simplified act**

(1) According to the rules in article 267 and this Chapter, all money the Indian Government receives, including money from taxes, loans, and repayments, will go into one main account called "the Consolidated Fund of India." Similarly, all money a State Government receives, including money from taxes, loans, and repayments, will go into one main account called "the Consolidated Fund of the State."

(2) Any other public money received by or for the Indian Government or a State Government will go into a separate account called the public account of India or the public account of the State.

(3) Money from the Consolidated Fund of India or the Consolidated Fund of a State can only be used according to the law and in the way described in the Constitution.

#### Explanation using Example

##### Example 1:

Scenario: The Government of India receives revenue from income tax collections and issues treasury bills to raise funds for infrastructure projects.

##### Application:

All income tax revenues collected by the Government of India are deposited into the Consolidated Fund of India.

The funds raised through the issuance of treasury bills are also deposited into the Consolidated Fund of India.

Any repayment of loans given by the Government of India to other entities is credited back to the Consolidated Fund of India.

These funds can only be used for government expenditures as per the laws and procedures outlined in the Constitution.

##### Example 2:

Scenario: The Government of Maharashtra receives revenue from state sales tax and raises a loan through treasury bills to fund a new highway project.

##### Application:

All sales tax revenues collected by the Government of Maharashtra are deposited into the Consolidated Fund of the State of Maharashtra.

The funds raised through the issuance of treasury bills for the highway project are also deposited into the Consolidated Fund of the State.

Any repayment of loans given by the Government of Maharashtra to other entities is credited back to the Consolidated Fund of the State.



These funds can only be used for state government expenditures as per the laws and procedures outlined in the Constitution.

**Example 3:**

Scenario: The Government of India receives a grant from an international organization for a specific health project.

**Application:**

The grant received from the international organization is considered "public money" and is credited to the public account of India.

This money is separate from the Consolidated Fund of India and is used specifically for the health project as per the terms of the grant.

The expenditure of this money is also subject to the laws and procedures outlined in the Constitution.

**Example 4:**

Scenario: The Government of Karnataka receives revenue from property taxes and issues a loan to fund a new school construction project.

**Application:**

All property tax revenues collected by the Government of Karnataka are deposited into the Consolidated Fund of the State of Karnataka.

The funds raised through the issuance of a loan for the school construction project are also deposited into the Consolidated Fund of the State.

Any repayment of loans given by the Government of Karnataka to other entities is credited back to the Consolidated Fund of the State.

These funds can only be used for state government expenditures as per the laws and procedures outlined in the Constitution.

**Article 267: Contingency Fund.**

(1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen

expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor \* \* \* of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of the State by law under article 205 or article 206.

### **Simplified act**

(1) Parliament can create a special fund called "the Contingency Fund of India." Money will be added to this fund as decided by law. The President can use this fund to cover unexpected expenses until Parliament approves these expenses under article 115 or article 116.

(2) A State Legislature can create a special fund called "the Contingency Fund of the State." Money will be added to this fund as decided by law. The Governor of the State can use this fund to cover unexpected expenses until the State Legislature approves these expenses under article 205 or article 206.

Explanation using Example

Example 1:

Scenario: A sudden natural disaster, such as a severe flood, hits the state of Kerala, causing widespread damage and requiring immediate relief efforts.

Application of Article 267:

The Kerala State Government needs immediate funds to provide relief and rehabilitation to the affected people.

The Legislature of Kerala has already established a "Contingency Fund of the State" as per Article 267(2).

The Governor of Kerala authorizes the use of the Contingency Fund to release Rs. 50 crores for immediate relief operations.

This expenditure is made without prior approval from the State Legislature due to the urgency of the situation.

Later, the expenditure is presented to the State Legislature for approval under Article 205 or Article 206.

Example 2:

Scenario: The Indian Government needs to evacuate Indian citizens from a foreign country due to a sudden outbreak of war.

Application of Article 267:

The Ministry of External Affairs requires immediate funds to arrange for flights and other logistics to evacuate Indian citizens.

The Parliament of India has established a "Contingency Fund of India" as per Article 267(1).

The President of India authorizes the use of the Contingency Fund to release Rs. 100 crores for the evacuation process.

This expenditure is made without prior approval from the Parliament due to the urgency of the situation.

Later, the expenditure is presented to the Parliament for approval under Article 115 or Article 116.

### **Distribution of Revenues between the Union and the States**

**Article 268: Duties levied by the Union but collected and appropriated by the States.**

(1) Such stamp duties as are mentioned in the Union List shall be levied by the Government of India but shall be collected -

(a) in the case where such duties are leviable within any Union territory, by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

### **Simplified act**

(1) The Indian government will set the stamp duties listed in the Union List, but they will be collected by:

- (a) the Indian government if the duties are within a Union territory, and
- (b) the respective State governments if the duties are within a State.

(2) The money collected from these duties in any State during a financial year will not go into the main fund of the Indian government. Instead, it will be given to that State.

### Explanation using Example

#### Example 1:

Scenario: Purchase of Property in Maharashtra

Details:

Mr. Sharma buys a piece of land in Maharashtra.

The transaction requires payment of stamp duty, which is listed in the Union List.

Application of Article 268:

The stamp duty is levied by the Government of India.

Since Maharashtra is a state, the stamp duty is collected by the Maharashtra State Government.

The proceeds from the stamp duty collected in Maharashtra do not go to the Consolidated Fund of India but are assigned to the Maharashtra State Government.

#### Example 2:

Scenario: Purchase of Property in Delhi (Union Territory)

Details:

Ms. Gupta buys an apartment in Delhi, which is a Union Territory.

The transaction requires payment of stamp duty, which is listed in the Union List.

Application of Article 268:

The stamp duty is levied by the Government of India.

Since Delhi is a Union Territory, the stamp duty is collected by the Government of India.

The proceeds from the stamp duty collected in Delhi go to the Consolidated Fund of India.

Example 3:

Scenario: Business Transaction in Karnataka

Details:

A company in Karnataka issues shares and requires payment of stamp duty on the share certificates, which is listed in the Union List.

Application of Article 268:

The stamp duty is levied by the Government of India.

Since Karnataka is a state, the stamp duty is collected by the Karnataka State Government.

The proceeds from the stamp duty collected in Karnataka do not go to the Consolidated Fund of India but are assigned to the Karnataka State Government.

Example 4:

Scenario: Transfer of Property in Puducherry (Union Territory)

Details:

Mr. Reddy transfers property in Puducherry, which is a Union Territory.

The transaction requires payment of stamp duty, which is listed in the Union List.

Application of Article 268:

The stamp duty is levied by the Government of India.

Since Puducherry is a Union Territory, the stamp duty is collected by the Government of India.

The proceeds from the stamp duty collected in Puducherry go to the Consolidated Fund of India.

Article 268A: Service tax levied by Union and collected by the Union and the States: Omitted.

Omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 7 (with effect from 16-9-2016).

### **Simplified act**

Removed by the Constitution (One Hundred and First Amendment) Act, 2016, section 7 (effective from September 16, 2016).

Explanation using Example

Example 1:

Before the Constitution (One Hundred and First Amendment) Act, 2016, service tax was a tax levied by the Union government on services provided. For instance, if a restaurant in Mumbai provided dining services, it would charge service tax on the bill. This tax was collected by the Union government and then distributed between the Union and the States.

After the amendment, Article 268A was omitted, and the Goods and Services Tax (GST) was introduced. Now, instead of service tax, the restaurant charges GST on the bill. The GST is a comprehensive tax that includes both Central GST (CGST) and State GST (SGST), which are collected and shared between the Union and the State government of Maharashtra.

Example 2:

Consider a software company in Bangalore that provides IT services to clients across India. Before the amendment, the company would charge service tax on its invoices, which was collected by the Union government. The revenue from this service tax was then shared between the Union and the State governments.

Post-amendment, with the introduction of GST, the company now charges Integrated GST (IGST) for inter-state services. For services provided within Karnataka, it charges both CGST and SGST. This new system simplifies the tax

structure and ensures that both the Union and the State governments receive their share of the tax revenue directly.

**Article 269: Taxes levied and collected by the Union but assigned to the States.**

(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods except as provided in article 269A shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation. - For the purposes of this clause, -

(a) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

(3) Parliament may by law formulate principles for determining when a sale or purchase of, or consignment of goods takes place in the course of inter-State trade or commerce.

**Simplified act**

(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods, except as mentioned in article 269A, will be collected by the Government of India. However, these taxes will be given to the States starting from April 1, 1996, as explained in clause (2).

Explanation. - For this clause, -

(a) "Taxes on the sale or purchase of goods" means taxes on the sale or purchase of goods (not including newspapers) when the sale or purchase happens between different states.

(b) "Taxes on the consignment of goods" means taxes on sending goods from one place to another (whether to the sender or someone else) when this happens between different states.

(2) The total money collected from these taxes in any financial year, except the money from Union territories, will not go into the main fund of India. Instead, it will be given to the States where the tax was collected that year. This money will be shared among the States based on rules made by Parliament.

(3) Parliament can make laws to decide the rules for when a sale, purchase, or consignment of goods happens between different states.

#### Explanation using Example

##### Example 1:

Imagine a company named "ABC Electronics" based in Maharashtra sells a large batch of smartphones to a retailer in Karnataka. The sale of these smartphones is considered an inter-State sale because it involves the transfer of goods from one state to another. According to Article 269, the tax on this sale will be levied and collected by the Government of India. However, the revenue generated from this tax will not be kept by the central government. Instead, it will be assigned to the states involved—in this case, Maharashtra and Karnataka—based on principles formulated by Parliament.

##### Example 2:

Consider a scenario where a textile manufacturer in Gujarat sends a consignment of fabrics to its own warehouse in Tamil Nadu. This consignment is also an inter-State transaction. The tax on this consignment will be levied and collected by the Government of India. However, the net proceeds from this tax will be distributed to the states involved, Gujarat and Tamil Nadu, rather than being part of the Consolidated Fund of India. The distribution will follow principles set by Parliament to ensure fair allocation between the states.

##### Example 3:

A company named "Fresh Fruits Ltd." in Punjab sells a large quantity of apples to a distributor in Delhi. This transaction is an inter-State sale. The tax on this



sale will be collected by the central government. However, the revenue from this tax will be assigned to Punjab and Delhi. The exact distribution of the tax revenue between these states will be determined by principles laid out by Parliament, ensuring that both states receive their fair share of the tax proceeds.

**Example 4:**

A logistics company in West Bengal sends a consignment of electronic goods to a retailer in Odisha. This consignment is an inter-State transaction. The tax on this consignment will be levied and collected by the Government of India. The net proceeds from this tax will be assigned to West Bengal and Odisha, based on distribution principles formulated by Parliament. This ensures that the states involved in the transaction benefit from the tax revenue generated.

**Example 5:**

A pharmaceutical company in Andhra Pradesh sells a batch of medicines to a hospital chain in Kerala. This sale is an inter-State transaction. The tax on this sale will be collected by the central government. However, the revenue from this tax will be assigned to Andhra Pradesh and Kerala. The distribution of the tax revenue will be done according to principles set by Parliament, ensuring that both states receive their appropriate share of the tax proceeds.

**Article 269A: Levy and collection of goods and services tax in course of inter-State trade or commerce.**

**Goods and Services Tax on Inter-State Trade or Commerce**

(1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation: For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

### **Simplified act**

#### Goods and Services Tax on Inter-State Trade or Commerce

(1) The Government of India will charge and collect a tax on goods and services that are traded between different states. This tax will be shared between the central government and the states based on rules made by Parliament, following the advice of the Goods and Services Tax Council.

Explanation: For this rule, bringing goods or services into India from another country will be treated the same as trading goods or services between different states within India.

(2) The part of the tax that goes to a state will not be included in the central government's main account, called the Consolidated Fund of India.

(3) If the tax collected by the central government is used to pay a tax that a state has charged under a specific article (Article 246A), that amount will not be included in the central government's main account.

(4) Similarly, if the tax collected by a state is used to pay a tax that the central government has charged, that amount will not be included in the state's main account.

(5) Parliament can make laws to decide the rules for figuring out where a sale of goods or services happens, and when it counts as trading between different states.

Explanation using Example

Example 1:

Scenario: A company in Maharashtra sells machinery to a company in Karnataka.

Explanation: Since the sale involves two different states, it qualifies as inter-State trade. According to Article 269A, the Goods and Services Tax (GST) on this transaction will be levied and collected by the Government of India. The collected tax will then be distributed between the Union and the States based on the recommendations of the GST Council.

Practical Outcome: The Maharashtra company will charge Integrated GST (IGST) on the machinery sold to the Karnataka company. The IGST collected will be apportioned between the Central Government and the State Governments as per the law.

#### Example 2:

Scenario: An individual in Delhi purchases a software service from a company based in the United States.

Explanation: The import of services into India is considered as inter-State trade under Article 269A. Therefore, the GST on this service will be levied and collected by the Government of India.

Practical Outcome: The individual in Delhi will be required to pay IGST on the imported software service. The collected IGST will be distributed between the Union and the States according to the recommendations of the GST Council.

#### Example 3:

Scenario: A business in Tamil Nadu supplies goods to a customer in Kerala and uses the tax credit from the IGST paid on the purchase of raw materials from Gujarat.

Explanation: The GST collected on the sale from Tamil Nadu to Kerala is considered inter-State trade. The business in Tamil Nadu can use the IGST credit from the raw materials purchased from Gujarat to pay the IGST on the sale to Kerala.

Practical Outcome: The IGST collected on the sale to Kerala will be apportioned between the Union and the States. The tax credit used from the purchase in Gujarat will not form part of the Consolidated Fund of India, ensuring proper allocation of tax revenues.

#### Example 4:

Scenario: A retailer in West Bengal sells goods to a customer in Assam and uses the tax credit from the SGST paid on local purchases within West Bengal.

Explanation: The sale from West Bengal to Assam is inter-State trade, and the GST will be levied and collected by the Government of India. The retailer can use the SGST credit from local purchases to pay the IGST on the inter-State sale.

Practical Outcome: The IGST collected on the sale to Assam will be distributed between the Union and the States. The SGST credit used will not form part of the Consolidated Fund of West Bengal, ensuring accurate distribution of tax revenues.

#### Example 5:

Scenario: Parliament enacts a law determining that the place of supply for online educational services is the location of the recipient.

Explanation: According to Article 269A(5), Parliament has the authority to formulate principles for determining the place of supply for goods and services. In this case, the place of supply for online educational services is determined to be the location of the recipient.

Practical Outcome: If an online educational service provider based in Mumbai supplies services to a student in Chennai, the place of supply is Chennai. Therefore, the transaction is considered inter-State trade, and IGST will be levied and collected by the Government of India.

### **Article 270: Taxes levied and distributed between the Union and the States.**

(1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268, 269 and 269A, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(1A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, "prescribed" means, -

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.

### **Simplified act**

(1) All taxes and duties listed in the Union List, except for those mentioned in articles 268, 269, and 269A, as well as surcharges on taxes and duties mentioned in article 271 and any special-purpose cess created by Parliament, will be collected by the Government of India. These will be shared between the central government (Union) and the state governments as described in clause (2).

(1A) The tax collected by the central government under clause (1) of article 246A will also be shared between the central and state governments as described in clause (2).

(1B) The tax collected by the central government under clause (2) of article 246A and article 269A, which has been used to pay the tax collected under clause (1) of article 246A, and the amount allocated to the central government under clause (1) of article 269A, will also be shared between the central and state governments as described in clause (2).

(2) A certain percentage of the net proceeds from any such tax or duty in any financial year will not be part of the Consolidated Fund of India. Instead, it will

be given to the states where the tax or duty was collected that year. This will be distributed among those states in a manner and time as prescribed in clause (3).

(3) In this article, "prescribed" means:

(i) Until a Finance Commission is set up, it will be prescribed by the President through an order.

(ii) After a Finance Commission is set up, it will be prescribed by the President through an order after considering the recommendations of the Finance Commission.

Explanation using Example

Example 1:

Scenario: The Government of India collects Goods and Services Tax (GST) from businesses across the country.

Application of Article 270:

Collection: The GST is levied and collected by the Government of India as per the Union List.

Exclusions: This GST does not include taxes referred to in articles 268, 269, and 269A, nor does it include surcharges or specific cesses.

Distribution: The collected GST is then distributed between the Union and the States. For instance, if the total GST collected in a financial year is ₹1,00,000 crore, a certain percentage (say 42%) is distributed to the States.

State Allocation: The ₹42,000 crore (42% of ₹1,00,000 crore) is then allocated to different States based on a formula prescribed by the President, considering the recommendations of the Finance Commission.

Example 2:

Scenario: The Government of India imposes a new environmental cess on industries to combat pollution.

Application of Article 270:

Collection: The environmental cess is levied and collected by the Government of India under a law made by Parliament.

**Exclusions:** This cess is specifically for environmental purposes and is not part of the taxes referred to in articles 268, 269, and 269A.

**Distribution:** The collected cess is then distributed between the Union and the States. For example, if the total environmental cess collected in a financial year is ₹10,000 crore, a certain percentage (say 50%) is distributed to the States.

**State Allocation:** The ₹5,000 crore (50% of ₹10,000 crore) is then allocated to different States based on a formula prescribed by the President, considering the recommendations of the Finance Commission.

**Example 3:**

**Scenario:** The Government of India collects income tax from individuals and corporations.

**Application of Article 270:**

**Collection:** The income tax is levied and collected by the Government of India as per the Union List.

**Exclusions:** This income tax does not include taxes referred to in articles 268, 269, and 269A, nor does it include surcharges or specific cesses.

**Distribution:** The collected income tax is then distributed between the Union and the States. For instance, if the total income tax collected in a financial year is ₹2,00,000 crore, a certain percentage (say 30%) is distributed to the States.

**State Allocation:** The ₹60,000 crore (30% of ₹2,00,000 crore) is then allocated to different States based on a formula prescribed by the President, considering the recommendations of the Finance Commission.

**Article 271:** Surcharge on certain duties and taxes for purposes of the Union.

Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles except the goods and services tax under article 246A, by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

### **Simplified act**

Despite what is mentioned in articles 269 and 270, Parliament has the power to increase any of the duties or taxes mentioned in those articles, except for the goods and services tax (GST) under article 246A.

This increase can be done through an additional charge called a surcharge.

The money collected from this surcharge will go entirely into the Consolidated Fund of India.

Explanation using Example

Example 1:

The Indian Parliament decides to increase the excise duty on luxury cars by 5% as a surcharge. This additional revenue is intended to fund a national healthcare program. Despite the existing provisions in Articles 269 and 270 regarding the distribution of tax revenues between the Union and the States, this surcharge will be collected solely for the Union's purposes and will be added to the Consolidated Fund of India. The States will not receive a share of this surcharge.

Example 2:

To address a sudden national emergency, such as a natural disaster, the Parliament imposes a 2% surcharge on income tax for individuals earning above ₹10 lakh per annum. This surcharge is specifically for the Union's disaster relief efforts. The entire amount collected from this surcharge will go directly into the Consolidated Fund of India, bypassing the usual revenue-sharing arrangements with the States as outlined in Articles 269 and 270.

**Article 272: Taxes which are levied and collected by the Union and may be distributed between the Union and the States: Omitted.**

Omitted by the Constitution (Eightieth Amendment) Act, 2000, s. 4. (with effect from 9-6-2000).

**Article 273: Grants in lieu of export duty on jute and jute products.**

(1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Odisha and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.



(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution whichever is earlier.

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

### **Simplified act**

(1) Every year, the government will give money from the Consolidated Fund of India to the states of Assam, Bihar, Odisha, and West Bengal. This money is to help their budgets instead of giving them a share of the money made from export taxes on jute and jute products.

(2) The government will keep giving this money as long as there is an export tax on jute or jute products, or for ten years from the start of the Constitution, whichever comes first.

(3) In this article, the word "prescribed" means the same thing as it does in article 270.

#### Explanation using Example

##### Example 1:

Scenario: The Government of India decides to levy an export duty on jute products for the financial year 2023-2024.

Application: According to Article 273 of the Constitution of India, the states of Assam, Bihar, Odisha, and West Bengal are entitled to receive grants-in-aid from the Consolidated Fund of India. This is in lieu of receiving a share of the net proceeds from the export duty on jute and jute products.

Example: The Government of India collects ₹100 crore as export duty on jute products in the financial year 2023-2024. Instead of distributing a share of this ₹100 crore directly to the states of Assam, Bihar, Odisha, and West Bengal, the central government will allocate a prescribed sum from the Consolidated Fund of India to these states as grants-in-aid. This ensures that these states receive financial support without directly depending on the fluctuating export duty revenues.

##### Example 2:

Scenario: The Government of India decides to stop levying export duty on jute products starting from the financial year 2025-2026.

Application: According to Article 273, the grants-in-aid from the Consolidated Fund of India to the states of Assam, Bihar, Odisha, and West Bengal will continue only as long as the export duty on jute and jute products is levied or until ten years from the commencement of the Constitution, whichever is earlier.

Example: If the export duty on jute products is discontinued in 2025-2026, the grants-in-aid to the states of Assam, Bihar, Odisha, and West Bengal will also cease. However, if the export duty had continued, the grants-in-aid would have been provided until the expiration of ten years from the commencement of the Constitution, which would be until 1960 (since the Constitution commenced in 1950).

**Article 274: Prior recommendation of President required to Bills affecting taxation in which States are interested.**

Article

(1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression "tax or duty in which States are interested" means -

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

**Simplified act**

Article

(1) No new law or change to an existing law that involves taxes or duties affecting the States, changes the definition of "agricultural income" for Indian income-tax purposes, affects how money is distributed to States, or imposes a special tax for the Union, can be introduced or discussed in either House of Parliament without the President's recommendation.

(2) In this article, "tax or duty in which States are interested" means:

(a) a tax or duty where all or part of the money collected is given to any State;  
or

(b) a tax or duty where the money collected is used to make payments from the Consolidated Fund of India to any State.

#### Explanation using Example

##### Example 1:

The central government proposes a new Bill to introduce a tax on digital transactions. This tax will be partially allocated to the states to support their digital infrastructure development. Before this Bill can be introduced in either the Lok Sabha or the Rajya Sabha, it must receive the recommendation of the President of India. This is because the tax affects the revenue distribution between the Union and the States, making it a matter of interest to the States.

##### Example 2:

A proposed amendment seeks to redefine "agricultural income" to include income from certain types of agro-based industries. This change would affect the way agricultural income is taxed under the Indian Income Tax Act. Since this amendment impacts the taxation principles and revenue distribution to the States, it cannot be introduced in Parliament without the President's prior recommendation.

##### Example 3:

The Union government plans to introduce a surcharge on luxury goods to raise additional revenue for national defense. Part of this surcharge will be distributed to the States to support their local defense initiatives. According to Article 274, this Bill requires the President's recommendation before it can be introduced in either House of Parliament, as it involves a surcharge that affects the financial interests of the States.

##### Example 4:

A new Bill proposes to change the formula for distributing the Goods and Services Tax (GST) revenue between the Union and the States. This change would alter the principles on which the revenue is currently distributed. As this Bill directly impacts the financial interests of the States, it must receive the President's recommendation before being introduced in Parliament.

**Article 275: Grants from the Union to certain States.**

(1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to:

(a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule; and

(b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

(1A) On and from the formation of the autonomous State under article 244A:

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration of that State to that of the administration of the rest of the State of Assam.

(2) Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

### **Simplified act**

(1) Every year, the Parliament will decide how much money should be given to certain States from the Consolidated Fund of India to help them with their finances. Different amounts can be given to different States based on their needs:

Provided that money will be given from the Consolidated Fund of India to a State to help cover the costs of development projects approved by the Government of India. These projects should aim to improve the welfare of Scheduled Tribes or to bring the administration of Scheduled Areas up to the same level as other areas in the State:

Provided further that money will also be given from the Consolidated Fund of India to the State of Assam to cover:

(a) The average extra expenses over income during the two years before this Constitution started, specifically for managing the tribal areas listed in Part I of the table in paragraph 20 of the Sixth Schedule; and

(b) The costs of development projects approved by the Government of India to improve the administration of these areas to the same level as other areas in Assam.

(1A) From the time an autonomous State is formed under article 244A:

(i) Any money that should be given under clause (a) of the second proviso to clause (1) will be given to the autonomous State if it includes all the tribal areas mentioned. If it includes only some of those areas, the money will be divided between the State of Assam and the autonomous State as specified by the President;

(ii) Money will be given from the Consolidated Fund of India to the autonomous State to cover the costs of development projects approved by the Government of India. These projects should aim to improve the administration of the autonomous State to the same level as the rest of Assam.

(2) Until the Parliament makes a provision under clause (1), the President can exercise the powers given to Parliament under that clause by issuing an order. Any order made by the President will be effective until the Parliament makes a provision:

Provided that after a Finance Commission is set up, the President cannot make an order under this clause without considering the recommendations of the Finance Commission.

#### Explanation using Example

##### Example 1:

Scenario: The State of Odisha has a significant population of Scheduled Tribes and several Scheduled Areas that require development to match the administrative standards of other regions in the state.

##### Application of Article 275:

Identification of Need: The Government of Odisha identifies that it needs financial assistance to implement development schemes for the welfare of Scheduled Tribes and to improve the administration of Scheduled Areas.

Proposal Submission: The State Government submits a proposal to the Government of India detailing the development schemes and the estimated costs.

Approval: The Government of India reviews and approves the proposal.

Grant Allocation: Based on the approval, Parliament allocates a specific sum from the Consolidated Fund of India as a grant-in-aid to Odisha.

Utilization: Odisha uses the grant to implement the approved development schemes, such as building schools, healthcare facilities, and infrastructure in the Scheduled Areas.

#### Example 2:

Scenario: The State of Assam has tribal areas that incurred higher administrative costs than revenues in the two years before the Constitution commenced. Additionally, Assam plans new development schemes for these tribal areas.

#### Application of Article 275:

Historical Expenditure Calculation: The Government of Assam calculates the average excess of expenditure over revenues for the tribal areas during the two years immediately preceding the commencement of the Constitution.

Proposal for Development Schemes: Assam submits a proposal to the Government of India for new development schemes aimed at improving the administration of the tribal areas.

Approval and Allocation: The Government of India approves the proposal. Parliament allocates grants from the Consolidated Fund of India to cover:

The historical excess expenditure.

The costs of the new development schemes.

Implementation: Assam uses the grants to cover past deficits and to implement the new development schemes, such as improving local governance, infrastructure, and public services in the tribal areas.

#### Example 3:

Scenario: Formation of an Autonomous State under Article 244A comprising some tribal areas of Assam.

#### Application of Article 275:

Formation of Autonomous State: An autonomous state is formed under Article 244A, comprising some of the tribal areas of Assam.

Apportionment of Grants: The President issues an order specifying how the grants under clause (a) of the second proviso to clause (1) will be apportioned between Assam and the new autonomous state.

**Grant Allocation to Autonomous State:** The autonomous state receives grants from the Consolidated Fund of India equivalent to the costs of development schemes approved by the Government of India.

**Utilization:** The autonomous state uses the grants to implement development schemes aimed at raising its administrative standards to match the rest of Assam, such as enhancing local governance, infrastructure, and public services.

**Example 4:**

**Scenario:** No specific provision by Parliament for grants-in-aid to a state in need of assistance.

**Application of Article 275:**

**Interim Provision by President:** Until Parliament makes specific provisions, the President exercises the powers conferred under clause (1) to allocate grants-in-aid to the state in need.

**Consideration of Finance Commission Recommendations:** If a Finance Commission has been constituted, the President considers its recommendations before making any order.

**Grant Allocation:** The President issues an order allocating the necessary grants from the Consolidated Fund of India to the state.

**Utilization:** The state uses the grants to meet its financial needs and implement development schemes as required.

### **Article 276: Taxes on professions, trades, callings and employments.**

(1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum.

\* \* \*



(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

### **Simplified act**

(1) Despite what is mentioned in article 246, any law made by a State Legislature about taxes for the benefit of the State or local authorities (like municipalities, district boards, or local boards) on professions, trades, jobs, or businesses will not be considered invalid just because it is related to income tax.

(2) The total amount of tax that any one person has to pay to the State or any local authority (like a municipality, district board, or local board) for professions, trades, jobs, or businesses should not be more than two thousand and five hundred rupees per year.

(3) The power of a State Legislature to make laws about taxes on professions, trades, jobs, or businesses does not limit the power of Parliament to make laws about income tax from these professions, trades, jobs, or businesses.

### **Explanation using Example**

#### **Example 1:**

Ravi is a software engineer working in Bangalore, Karnataka. The state government of Karnataka imposes a professional tax on all individuals earning an income through professions, trades, callings, or employments. Ravi is required to pay a professional tax of Rs. 2,400 per annum to the state government. This tax is deducted from his salary by his employer and remitted to the state government. Despite Ravi already paying income tax to the central government, the professional tax imposed by the state is valid under Article 276 of the Constitution of India, as it does not exceed the limit of Rs. 2,500 per annum.

#### **Example 2:**

Sita runs a small tailoring business in Jaipur, Rajasthan. The local municipal corporation imposes a professional tax on all businesses operating within its jurisdiction. Sita is required to pay a professional tax of Rs. 1,500 per annum to the municipal corporation. This tax is separate from the income tax she pays

to the central government on the profits earned from her business. Under Article 276, the professional tax imposed by the municipal corporation is valid as it is within the permissible limit of Rs. 2,500 per annum.

**Example 3:**

Dr. Arjun is a practicing doctor in Mumbai, Maharashtra. The state government of Maharashtra imposes a professional tax on all medical practitioners. Dr. Arjun is required to pay a professional tax of Rs. 2,000 per annum to the state government. This tax is in addition to the income tax he pays to the central government on his earnings. According to Article 276, the professional tax imposed by the state government is valid as it does not exceed the limit of Rs. 2,500 per annum.

**Example 4:**

Meera is a freelance graphic designer based in Chennai, Tamil Nadu. The local district board imposes a professional tax on all freelancers operating within its jurisdiction. Meera is required to pay a professional tax of Rs. 1,800 per annum to the district board. This tax is separate from the income tax she pays to the central government on her freelance earnings. Under Article 276, the professional tax imposed by the district board is valid as it is within the permissible limit of Rs. 2,500 per annum.

**Article 277: Savings.**

Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

**Simplified act**

Any taxes, duties, cesses, or fees that were legally being collected by the Government of any State, municipality, or other local authority before this Constitution started can continue to be collected and used for the same purposes, even if those taxes, duties, cesses, or fees are now listed under the Union List. This will remain the case until Parliament decides otherwise by making a new law.

## Explanation using Example

### Example 1:

Before the Constitution of India came into effect, the state of Maharashtra was levying a property tax on residential properties within its jurisdiction. This tax was used to fund local infrastructure projects such as road maintenance and public parks. After the Constitution commenced, Article 277 allowed Maharashtra to continue levying this property tax even though property taxes are mentioned in the Union List. This continued until Parliament enacted a new law that either modified or abolished this tax.

### Example 2:

In the city of Bengaluru, the local municipality was charging a sanitation fee from all households for waste management services before the Constitution of India was adopted. This fee was crucial for maintaining cleanliness and public health in the city. According to Article 277, Bengaluru's municipality could continue to collect this sanitation fee even after the Constitution came into force, despite sanitation being a subject in the Union List. This arrangement persisted until the Parliament passed a law that provided otherwise.

## **Article 278: Agreement with States in Part B of the First Schedule with regard to certain financial matters: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule (with effect from 1-11-1956).

## **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956, section 29 and Schedule (effective from November 1, 1956).

## Explanation using Example

### Example 1:

Scenario: Before the Constitution (Seventh Amendment) Act, 1956, the Indian government had specific agreements with states listed in Part B of the First Schedule regarding financial matters. For instance, the central government might have had an agreement with the state of Hyderabad (a Part B state) to share certain tax revenues.

Application: After the Seventh Amendment, these specific agreements were omitted. This means that any special financial arrangements that existed between the central government and Part B states like Hyderabad were no longer valid. Instead, financial matters would be governed by the general provisions applicable to all states.

Example 2:

Scenario: Imagine a situation in 1955 where the state of Mysore (a Part B state) had a special agreement with the central government to receive a fixed percentage of customs duties collected at its ports.

Application: With the omission of Article 278 by the Constitution (Seventh Amendment) Act, 1956, this special agreement would be nullified. From November 1, 1956, onwards, Mysore would receive funds based on the standard revenue distribution formula applicable to all states, without any special consideration for its previous agreement.

#### **Article 279: Calculation of "net proceeds", etc.**

(1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

#### **Simplified act**

(1) In the previous sections of this Chapter, "net proceeds" means the money collected from any tax or duty after subtracting the cost of collecting it. The Comptroller and Auditor-General of India will determine and certify the net proceeds for any tax or duty in any area, and their certification will be final.

(2) Apart from what is mentioned above and any other specific rules in this Chapter, a law made by Parliament or an order by the President can decide how the money from any tax or duty assigned to a State should be calculated, when and how payments should be made, how to adjust payments between different financial years, and any other related matters.

#### Explanation using Example

##### Example 1:

Scenario: The Union Government collects a Goods and Services Tax (GST) of ₹100 crore from the state of Maharashtra.

Application of Article 279:

Net Proceeds Calculation: The cost of collecting this GST is ₹5 crore. Therefore, the "net proceeds" would be ₹100 crore - ₹5 crore = ₹95 crore.

Certification: The Comptroller and Auditor-General (CAG) of India certifies that the net proceeds from Maharashtra are ₹95 crore. This certification is final and cannot be contested.

Distribution: According to the law made by Parliament, 50% of the net proceeds from GST are to be assigned to the state. Therefore, Maharashtra will receive ₹47.5 crore (50% of ₹95 crore).

##### Example 2:

Scenario: The Union Government collects an excise duty of ₹200 crore from the state of Tamil Nadu.

Application of Article 279:

Net Proceeds Calculation: The cost of collecting this excise duty is ₹10 crore. Therefore, the "net proceeds" would be ₹200 crore - ₹10 crore = ₹190 crore.

Certification: The CAG certifies that the net proceeds from Tamil Nadu are ₹190 crore. This certification is final and binding.

Distribution: According to an order by the President, 60% of the net proceeds from excise duty are to be assigned to the state. Therefore, Tamil Nadu will receive ₹114 crore (60% of ₹190 crore).

Adjustments: If there were any discrepancies or adjustments needed between financial years, these would be handled as per the provisions laid out by Parliament or the President's order.

Example 3:

Scenario: The Union Government collects a customs duty of ₹50 crore from the state of Karnataka.

Application of Article 279:

Net Proceeds Calculation: The cost of collecting this customs duty is ₹2 crore. Therefore, the "net proceeds" would be ₹50 crore - ₹2 crore = ₹48 crore.

Certification: The CAG certifies that the net proceeds from Karnataka are ₹48 crore. This certification is final.

Distribution: According to a law made by Parliament, 40% of the net proceeds from customs duty are to be assigned to the state. Therefore, Karnataka will receive ₹19.2 crore (40% of ₹48 crore).

Incidental Matters: Any incidental or ancillary matters, such as the timing of payments or adjustments between financial years, will be handled as per the law made by Parliament or the President's order.

### **Article 279A: Goods and Services Tax Council.**

Goods and Services Tax Council

(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:

(a) the Union Finance Minister - Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance - Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government - Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst

themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on:

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from, the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of:

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute:

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other side; or

(c) between two or more States, arising out of the recommendations of the Council or implementation thereof.

### **Simplified act**

#### Goods and Services Tax Council

(1) The President must set up a group called the Goods and Services Tax (GST) Council within 60 days after the Constitution (One Hundred and First Amendment) Act, 2016 starts.

(2) The GST Council will have the following members:

(a) The Union Finance Minister - Chairperson;



- (b) The Union Minister of State in charge of Revenue or Finance - Member;
- (c) The Finance or Taxation Minister, or any other Minister chosen by each State Government - Members.
- (3) The members mentioned in (c) above will choose one of themselves to be the Vice-Chairperson of the Council for a period they decide.
- (4) The GST Council will make suggestions to the Union and the States on:
  - (a) The taxes, cesses, and surcharges that can be included in the GST;
  - (b) The goods and services that should be taxed or exempted from GST;
  - (c) Model GST laws, rules for charging GST, sharing GST collected from inter-State trade, and rules for deciding where a supply is made;
  - (d) The minimum turnover below which goods and services are exempt from GST;
  - (e) The GST rates, including minimum rates with ranges;
  - (f) Any special rates for a certain period to raise extra funds during natural disasters;
  - (g) Special rules for the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, and Uttarakhand;
  - (h) Any other matter related to GST as decided by the Council.
- (5) The GST Council will recommend when GST should be applied to petroleum crude, diesel, petrol, natural gas, and aviation fuel.
- (6) The GST Council will aim to create a uniform GST structure and a unified national market for goods and services.
- (7) At least half of the total members must be present for the GST Council meetings to proceed.
- (8) The GST Council will decide how it will operate.
- (9) Every decision of the GST Council will be made at a meeting with at least three-fourths of the votes from the members present, based on these rules:
  - (a) The Central Government's vote will count as one-third of the total votes;

(b) The votes of all State Governments together will count as two-thirds of the total votes.

(10) The actions or decisions of the GST Council will not be invalid just because:

(a) There is a vacancy or a problem in the Council's setup;

(b) There is an issue with appointing a member;

(c) There is a minor procedural mistake that does not affect the main issue.

(11) The GST Council will set up a system to resolve any disputes:

(a) Between the Government of India and one or more States;

(b) Between the Government of India and any State(s) on one side and one or more other States on the other side;

(c) Between two or more States, arising from the Council's recommendations or their implementation.

Explanation using Example

Example 1:

Scenario: Introduction of a new tax rate for luxury goods.

Details: The Goods and Services Tax Council (GST Council) is convened to discuss the introduction of a new tax rate for luxury goods such as high-end cars, yachts, and private jets. The Union Finance Minister, the Union Minister of State in charge of Revenue, and the Finance Ministers from all the States are present.

Process:

The Union Finance Minister chairs the meeting.

The Council discusses the need for a higher tax rate on luxury goods to increase revenue.

The Council recommends a new GST rate of 28% for luxury goods.

The recommendation is put to a vote. The Central Government's vote has a weightage of one-third, and the State Governments' votes together have a weightage of two-thirds.

The recommendation passes with a three-fourths majority.

Outcome: The new GST rate for luxury goods is implemented, and businesses dealing in luxury goods must now charge 28% GST on their sales.

Example 2:

Scenario: Exemption of essential goods from GST.

Details: The GST Council meets to discuss exempting essential goods such as rice, wheat, and pulses from GST to make them more affordable for the common people.

Process:

The Union Finance Minister chairs the meeting.

The Council reviews the impact of GST on the prices of essential goods.

The Council recommends exempting rice, wheat, and pulses from GST.

The recommendation is put to a vote. The Central Government's vote has a weightage of one-third, and the State Governments' votes together have a weightage of two-thirds.

The recommendation passes with a three-fourths majority.

Outcome: Rice, wheat, and pulses are exempted from GST, reducing their prices and making them more affordable for consumers.

Example 3:

Scenario: Special GST rate for a natural disaster relief fund.

Details: A severe flood affects several states, and the GST Council is convened to discuss raising additional resources for disaster relief.

Process:

The Union Finance Minister chairs the meeting.

The Council discusses the need for additional funds to support flood relief efforts.

The Council recommends a special GST rate of 1% on all goods and services for a period of six months to raise funds for disaster relief.

The recommendation is put to a vote. The Central Government's vote has a weightage of one-third, and the State Governments' votes together have a weightage of two-thirds.

The recommendation passes with a three-fourths majority.

Outcome: A special GST rate of 1% is implemented for six months, and the additional revenue generated is used for flood relief efforts in the affected states.

Example 4:

Scenario: Dispute resolution between states on GST revenue sharing.

Details: Two states, State A and State B, have a dispute over the sharing of GST revenue from inter-state trade.

Process:

The GST Council establishes a mechanism to adjudicate the dispute.

Representatives from the Government of India and the two states present their cases to the adjudication panel.

The panel reviews the principles of levy and apportionment of GST as per Article 269A.

The panel makes a recommendation on how the GST revenue should be shared between State A and State B.

Outcome: The dispute is resolved based on the panel's recommendation, ensuring a fair distribution of GST revenue between the two states.

### **Article 280: Finance Commission.**

Finance Commission

(1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to -

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;

(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;

(d) any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

### **Simplified act**

#### Finance Commission

(1) The President must set up a Finance Commission within two years from the start of this Constitution. After that, a new Finance Commission must be set up every five years or sooner if the President thinks it's necessary. This Commission will have a Chairman and four other members, all chosen by the President.

(2) Parliament can make laws to decide what qualifications are needed to be a member of the Commission and how they should be chosen.

(3) The Commission's job is to give advice to the President about:

(a) How to share the money collected from taxes between the central government (Union) and the state governments, and how to divide this money among the states.

(b) The rules for giving financial help to the states from the central government's main fund (Consolidated Fund of India).

(bb) The steps needed to increase the main fund of a state to support local village councils (Panchayats) based on the state Finance Commission's advice.

(c) The steps needed to increase the main fund of a state to support city councils (Municipalities) based on the state Finance Commission's advice.

(d) Any other financial matters that the President asks the Commission to look into.

(4) The Commission will decide how it will operate and will have the powers given to it by laws made by Parliament to do its job.

Explanation using Example

Example 1:

Scenario: Distribution of Tax Revenue between Union and States

Context: The Finance Commission has been constituted by the President as per Article 280 of the Constitution of India. The Commission is tasked with recommending how the tax revenue collected by the Union government should be distributed between the Union and the States.

Example: The Finance Commission recommends that 42% of the net proceeds of Union taxes should be distributed to the States. This means if the Union government collects ₹100, ₹42 will be distributed among the States based on certain criteria such as population, income distance, area, and forest cover.

Impact: This ensures that States have adequate funds to manage their own budgets and provide public services such as healthcare, education, and infrastructure development.

Example 2:

Scenario: Grants-in-Aid to States

Context: The Finance Commission is also responsible for recommending principles for grants-in-aid to the States from the Consolidated Fund of India.

Example: The Finance Commission recommends a special grant of ₹10,000 crore to a drought-affected State to help it manage the crisis. This grant is over and above the regular share of tax revenue.

Impact: This helps the State government to provide immediate relief to the affected population, such as supplying drinking water, food, and medical aid, and to undertake long-term measures like building water conservation structures.

Example 3:

Scenario: Augmenting Resources of Panchayats

Context: The Finance Commission recommends measures to augment the Consolidated Fund of a State to supplement the resources of Panchayats.

Example: The Finance Commission recommends that 5% of the State's share of Union taxes should be earmarked for Panchayats. This means if a State receives ₹1,000 crore from the Union taxes, ₹50 crore should be allocated to Panchayats.

Impact: This ensures that local self-governments at the village level have sufficient funds to carry out development activities such as building roads, schools, and sanitation facilities.

Example 4:

Scenario: Augmenting Resources of Municipalities

Context: The Finance Commission also recommends measures to augment the Consolidated Fund of a State to supplement the resources of Municipalities.

Example: The Finance Commission recommends that 10% of the State's share of Union taxes should be allocated to Municipalities. This means if a State receives ₹1,000 crore from the Union taxes, ₹100 crore should be allocated to Municipalities.

Impact: This ensures that urban local bodies have adequate funds to manage urban infrastructure and services such as waste management, water supply, and public transportation.

Example 5:

Scenario: Special Recommendations by the President

Context: The President refers a special matter to the Finance Commission in the interest of sound finance.

Example: The President asks the Finance Commission to study and recommend measures to improve the financial health of States that are heavily indebted. The Finance Commission recommends a debt relief package and fiscal discipline measures for these States.

Impact: This helps the indebted States to manage their finances better, reduce their debt burden, and improve their creditworthiness, thereby ensuring long-term financial stability.

### **Article 281: Recommendations of the Finance Commission.**

The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

### **Simplified act**

The President must make sure that every suggestion made by the Finance Commission, along with an explanation of what has been done about it, is presented to both Houses of Parliament.

Explanation using Example

Example 1:

Scenario: The Finance Commission recommends increasing the share of tax revenue allocated to a particular state due to its increased expenditure on healthcare.

Explanation: The Finance Commission submits its recommendation to the President, suggesting that the state of Maharashtra should receive a higher percentage of the central tax revenue to support its healthcare initiatives. The President then prepares an explanatory memorandum detailing the recommendation and the actions taken based on it. This document is presented to both the Lok Sabha and the Rajya Sabha for their review and discussion.

Example 2:



Scenario: The Finance Commission advises on grants-in-aid to states facing natural disasters.

Explanation: After a severe flood in Assam, the Finance Commission recommends a special grant to assist the state in its recovery efforts. The President receives this recommendation and includes it in an explanatory memorandum, which outlines the proposed grant and the rationale behind it. This memorandum, along with the recommendation, is then laid before both Houses of Parliament, ensuring transparency and allowing for parliamentary scrutiny and debate.

## **PART XII: FINANCE, PROPERTY, CONTRACTS AND SUITS**

### **CHAPTER I: FINANCE**

#### **Miscellaneous Financial Provisions**

#### **Article 282: Expenditure defrayable by the Union or a State out of its revenues.**

The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

#### **Simplified act**

The central government (Union) or a state government can give money for any public purpose, even if that purpose is not something that the Parliament or the state legislature can make laws about.

Explanation using Example

Example 1:

The central government (Union) decides to allocate funds to a state government for the construction of a new hospital in a rural area. Although healthcare is primarily a state subject, the Union government can still make this grant to the state for the public purpose of improving healthcare facilities.

Example 2:

A state government wants to promote tourism in a particular region by organizing a cultural festival. Although tourism promotion is not explicitly listed as a subject on which the state legislature can make laws, the state

government can still use its revenues to fund the festival because it serves the public purpose of boosting local economy and culture.

**Article 283: Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.**

(1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor \* \* \* of the State.

**Simplified act**

(1) The handling of the Consolidated Fund of India and the Contingency Fund of India, including putting money into these Funds, taking money out of them, and managing other public money received by or for the Government of India, will be controlled by laws made by Parliament. Until such laws are made, the President will make rules to manage these matters.

(2) The handling of the Consolidated Fund of a State and the Contingency Fund of a State, including putting money into these Funds, taking money out of them, and managing other public money received by or for the Government of the State, will be controlled by laws made by the State Legislature. Until such laws are made, the Governor of the State will make rules to manage these matters.

Explanation using Example

Example 1:

Scenario: The Government of India needs to fund a sudden disaster relief operation due to a major earthquake in a northern state.

Application of Article 283:

Custody and Withdrawal from Contingency Fund of India:

The government decides to use the Contingency Fund of India to provide immediate relief.

The Ministry of Finance, following the rules made by the President, authorizes the withdrawal of funds.

The funds are quickly disbursed to the affected state for emergency services, medical aid, and temporary shelters.

Regulation by Law:

The Parliament has already established laws governing how money can be withdrawn from the Contingency Fund.

These laws ensure that the process is transparent and accountable, preventing misuse of funds.

Example 2:

Scenario: A state government needs to pay salaries to its employees, but there is a delay in the receipt of central funds.

Application of Article 283:

Custody and Withdrawal from Consolidated Fund of the State:

The state government decides to use the Consolidated Fund of the State to ensure timely payment of salaries.

The Finance Department of the state, following the rules made by the Governor, authorizes the withdrawal of the necessary amount.

Public Account of the State:

The state also receives various fees and taxes which are credited to the public account of the state.

These funds are managed separately and can be used for other state expenditures as per the rules established by the state legislature.

### Regulation by State Legislature:

The state legislature has enacted laws that regulate how money is paid into and withdrawn from the Consolidated Fund and the public account.

These laws ensure that the financial operations of the state are conducted in an orderly and lawful manner.

### Example 3:

Scenario: The Government of India receives a large donation from an international organization for a specific public health project.

### Application of Article 283:

#### Custody of Public Moneys:

The donation is received by the Government of India and is not credited to the Consolidated Fund or the Contingency Fund.

Instead, it is credited to the public account of India.

#### Payment and Withdrawal:

The Ministry of Health, following the rules made by the President, ensures that the donation is used exclusively for the public health project.

The funds are withdrawn from the public account as per the project requirements and timelines.

### Regulation by Law:

The Parliament has established laws that govern the receipt and utilization of such donations.

These laws ensure that the funds are used for their intended purpose and that there is proper accounting and auditing.

### Example 4:

Scenario: A state government needs to manage the funds received from various state-run lotteries.

### Application of Article 283:

#### Custody of Public Moneys:

The revenue from state-run lotteries is received by the state government and credited to the public account of the state.

#### Payment and Withdrawal:

The state government, following the rules made by the Governor, allocates these funds for various developmental projects such as building schools and hospitals.

The funds are withdrawn from the public account as per the project requirements.

#### Regulation by State Legislature:

The state legislature has enacted laws that regulate the management and utilization of lottery revenues.

These laws ensure that the funds are used for public welfare and that there is transparency in their utilization.

### **Article 284: Custody of suitors ' deposits and other moneys received by public servants and courts.**

All moneys received by or deposited with -

(a) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or

(b) any court within the territory of India to the credit of any cause, matter, account or persons,

shall be paid into the public account of India or the public account of State, as the case may be.

### **Simplified act**

All money received by or deposited with -

(a) any officer working for the Union (central) or State government in their official role, except for government revenues or public money collected by the Government of India or the State Government, or

(b) any court in India for any case, matter, account, or person,

must be paid into the public account of India or the public account of the State, depending on the situation.

#### Explanation using Example

##### Example 1:

Rajesh, a government officer in the State of Maharashtra, is responsible for collecting security deposits from contractors who wish to bid on public projects. These deposits are not considered government revenue but are held temporarily until the bidding process is complete. According to Article 284, Rajesh must ensure that these deposits are paid into the public account of the State of Maharashtra. This ensures transparency and proper accounting of the funds.

##### Example 2:

A civil court in Delhi is handling a property dispute between two parties, Asha and Ravi. During the proceedings, the court orders Ravi to deposit a sum of ₹5,00,000 as a security deposit to ensure compliance with the court's orders. This money is not revenue for the government but is held by the court for a specific purpose related to the case. As per Article 284, the court must deposit this amount into the public account of India, ensuring that the funds are securely held and properly accounted for until the case is resolved.

#### **Article 285: Exemption of property of the Union from State taxation.**

(1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

#### **Simplified act**

(1) The property owned by the central government (Union) does not have to pay any state taxes unless the Parliament makes a law that says otherwise.

(2) However, until the Parliament makes a new law, state authorities can continue to collect taxes on central government property if they were already

doing so before this Constitution started, as long as the tax is still being collected in that state.

#### Explanation using Example

##### Example 1:

The Indian Railways, which is a property of the Union Government, owns a large piece of land in the state of Maharashtra. According to Article 285(1) of the Constitution of India, this land is exempt from any property tax that the Maharashtra state government might impose. This means that the state government cannot levy property tax on the land owned by the Indian Railways unless the Parliament passes a law that specifically allows such taxation.

##### Example 2:

The Central Government owns a building in the state of Tamil Nadu that has been used as a post office since before the commencement of the Constitution of India. According to Article 285(2), if this building was subject to property tax by the Tamil Nadu state government before the Constitution came into effect, the state can continue to levy this tax until the Parliament enacts a law that states otherwise. This means that the Tamil Nadu state government can continue to collect property tax on this building as it was already being taxed before the Constitution was implemented.

#### **Article 286: Restrictions as to imposition of tax on the sale or purchase of goods.**

##### Section - (1)

No law of a State shall impose, or authorise the imposition of, a tax on the supply of goods or of services or both, where such supply takes place:

(a) outside the State; or

(b) in the course of the import of the goods or services or both into, or export of the goods or services or both out of, the territory of India.

\* 3 \* \* \*

##### Section - (2)

Parliament may by law formulate principles for determining when a supply of goods or of services or both in any of the ways mentioned in clause (1).

Section - (3)

\* \* \* \*

### **Simplified act**

Section - (1)

A state cannot create or allow a tax on the supply of goods or services if:

(a) the supply happens outside the state; or

(b) the supply involves importing goods or services into India, or exporting them out of India.

3 \* \* \*

Section - (2)

The Parliament can make laws to decide when a supply of goods or services falls under the situations mentioned in Section (1).

Section - (3)

Explanation using Example

Example 1:

Scenario: A company based in Maharashtra sells machinery to a company in Gujarat.

Application of Article 286:

According to Section (1)(a), Maharashtra cannot impose a sales tax on this transaction because the sale occurs outside the state of Maharashtra.

Gujarat, being the destination state, may impose its own tax regulations on the purchase, but Maharashtra has no authority to tax this sale.

Example 2:

Scenario: An Indian company based in Tamil Nadu exports textiles to a buyer in the United States.

Application of Article 286:



According to Section (1)(b), Tamil Nadu cannot impose a tax on the export of textiles because the transaction involves the export of goods out of the territory of India.

The central government may have specific export duties or regulations, but the state of Tamil Nadu cannot impose any tax on this export transaction.

#### Example 3:

Scenario: A company in Karnataka imports electronic components from China.

#### Application of Article 286:

According to Section (1)(b), Karnataka cannot impose a tax on the import of electronic components because the transaction involves the import of goods into the territory of India.

The central government may impose customs duties or other import taxes, but the state of Karnataka has no authority to tax this import transaction.

#### Example 4:

Scenario: A software development company in Delhi provides software services to a client in Haryana.

#### Application of Article 286:

According to Section (1)(a), Delhi cannot impose a tax on the software services provided to the client in Haryana because the service is supplied outside the state of Delhi.

Haryana, being the destination state, may impose its own tax regulations on the receipt of these services, but Delhi has no authority to tax this service transaction.

#### Example 5:

Scenario: A company in West Bengal sells tea to a company in Assam, and the tea is shipped directly from West Bengal to Assam.

#### Application of Article 286:

According to Section (1)(a), West Bengal cannot impose a sales tax on this transaction because the sale occurs outside the state of West Bengal.

Assam, being the destination state, may impose its own tax regulations on the purchase, but West Bengal has no authority to tax this sale.

### **Article 287: Exemption from taxes on electricity.**

Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is -

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

### **Simplified act**

Unless Parliament decides otherwise, no state law can impose or allow a tax on the use or sale of electricity (whether produced by the government or other people) if the electricity is:

(a) used by the Government of India, or sold to the Government of India for its use; or

(b) used in building, maintaining, or operating any railway by the Government of India or a railway company, or sold to the Government or such a railway company for these purposes,

Any law that imposes or allows a tax on the sale of electricity must ensure that the price of electricity sold to the Government of India for its use, or to any such railway company for building, maintaining, or operating any railway, is reduced by the amount of the tax compared to the price charged to other large electricity consumers.

Explanation using Example

#### Example 1:

The Indian Railways is planning to electrify a new railway line between Delhi and Mumbai. For this project, they need to purchase a significant amount of electricity. According to Article 287 of the Constitution of India, the state government cannot impose any tax on the electricity consumed by the Indian Railways for this project. This means that the electricity supplier will charge the Indian Railways a lower price, excluding any state taxes that would normally apply to other consumers.

#### Example 2:

The Central Government of India is setting up a new office complex in Bangalore. The electricity required for the construction and subsequent operation of this complex is substantial. Under Article 287, the state government of Karnataka cannot impose any tax on the electricity consumed by the Central Government for this purpose. As a result, the electricity bills for the Central Government will be lower compared to other consumers who have to pay state taxes on their electricity consumption.

#### **Article 288: Exemption from taxation by States in respect of water or electricity in certain cases.**

(1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation. - The expression "law of a State in force" in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous

consent of the President being obtained to the making of any such rule or order.

### **Simplified act**

(1) Unless the President decides otherwise, no state law that was in effect before this Constitution started can impose or allow a tax on water or electricity that is stored, generated, used, distributed, or sold by any authority created by existing laws or laws made by Parliament to manage or develop rivers that flow between states.

Explanation. - The term "state law in force" includes any state law passed or made before this Constitution started and not yet repealed, even if it is not currently active in some or all areas.

(2) A state legislature can create a law to impose or allow the tax mentioned in clause (1), but this law will only be valid if it is sent to the President for approval and he agrees to it. If the law allows for setting tax rates and other details through rules or orders made by any authority, the law must also require the President's prior consent for making any such rule or order.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra wants to impose a tax on electricity generated by a hydroelectric power plant located on the Godavari River, which flows through multiple states.

Application of Article 288:

Clause (1): Since the Godavari River is an inter-State river, any hydroelectric power plant on it would be regulated by a law made by Parliament. Therefore, Maharashtra cannot impose a tax on the electricity generated by this plant unless the President of India provides an order allowing it.

Clause (2): If Maharashtra still wants to impose the tax, the State Legislature can pass a law to that effect. However, this law will not be effective until it is reserved for the President's consideration and receives his assent. Additionally, if the law includes provisions for setting tax rates or other details through rules or orders, the President's prior consent is required for making those rules or orders.

Example 2:

Scenario: The State of Karnataka has a law in place from before the commencement of the Constitution that imposes a tax on water distributed by a state-run water authority.

Application of Article 288:

Clause (1): The existing law of Karnataka that imposes a tax on water distributed by a state-run authority would continue to be in force unless the President issues an order stating otherwise. This means Karnataka can continue to collect this tax without any new legislation.

Explanation: The term "law of a State in force" includes laws made before the Constitution came into effect, even if they were not operational in certain areas at that time. Therefore, the pre-existing law in Karnataka is valid under this clause.

Clause (2): If Karnataka wants to amend this law or impose a new tax on water distribution, the State Legislature can pass a new law. However, this new law will only be effective after it is reserved for the President's consideration and receives his assent. Any rules or orders made under this new law will also require the President's prior consent.

Example 3:

Scenario: The State of Tamil Nadu wants to impose a tax on electricity consumed by industries located along the Cauvery River, which is an inter-State river.

Application of Article 288:

Clause (1): Since the Cauvery River is an inter-State river, any electricity consumed by industries along this river would be regulated by a law made by Parliament. Therefore, Tamil Nadu cannot impose a tax on this electricity unless the President of India provides an order allowing it.

Clause (2): If Tamil Nadu still wants to impose the tax, the State Legislature can pass a law to that effect. However, this law will not be effective until it is reserved for the President's consideration and receives his assent. Additionally, if the law includes provisions for setting tax rates or other details through rules or orders, the President's prior consent is required for making those rules or orders.

## **Article 289: Exemption of property and income of a State from Union taxation.**

(1) The property and income of a State shall be exempt from Union taxation.

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

### **Simplified act**

(1) The property and income of a State do not have to pay taxes to the central government.

(2) However, the central government can still impose taxes on any trade or business run by the State government, or on any property used for such trade or business, or on any income from such activities, if the Parliament makes a law allowing it.

(3) The rule in clause (2) does not apply to any trade or business that the Parliament declares to be part of the usual functions of the government.

Explanation using Example

Example 1:

The Government of Maharashtra owns several buildings and land parcels across the state. According to Article 289(1) of the Constitution of India, the income generated from these properties, such as rent from government buildings, is exempt from Union taxation. This means that the Central Government cannot impose income tax on the revenue generated from these properties.

Example 2:

The Government of Karnataka runs a state-owned enterprise, Karnataka State Beverages Corporation Limited (KSBCL), which is involved in the trade of

alcoholic beverages. According to Article 289(2), the income generated from this business can be taxed by the Union Government if Parliament enacts a law to that effect. Therefore, if Parliament passes a law imposing a tax on the income from state-run businesses, KSBCL would be subject to Union taxation on its earnings.

Example 3:

The Government of Tamil Nadu operates a public transportation service through the Tamil Nadu State Transport Corporation (TNSTC). Since public transportation is considered an ordinary function of the government, Article 289(3) states that the income generated from this service is not subject to Union taxation, even if it is a trade or business. Therefore, the revenue from TNSTC's operations would remain exempt from Union taxes.

### **Article 290: Adjustment in respect of certain expenses and pensions.**

Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if -

- (a) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or
- (b) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

### **Simplified act**

If the Constitution says that the expenses of a court or Commission, or the pension for someone who has worked for the government before or after the

Constitution started, are to be paid from the main government funds (either India's or a State's), then:

(a) If the money comes from India's main fund, but the court or Commission is working for a State, or the person worked for a State, or

(b) If the money comes from a State's main fund, but the court or Commission is working for India or another State, or the person worked for India or another State,

then the State or India (whichever is relevant) must pay back the expenses or pension. The amount to be paid back will be decided by agreement or, if they can't agree, by an arbitrator chosen by the Chief Justice of India.

#### Explanation using Example

##### Example 1:

Mr. Sharma served as a judge in the High Court of Maharashtra before the commencement of the Constitution of India. After the Constitution came into effect, he continued to serve in the judiciary, but this time in the Supreme Court of India. Upon his retirement, his pension is charged on the Consolidated Fund of India. However, since Mr. Sharma also served in the High Court of Maharashtra, the State of Maharashtra is required to contribute a portion of his pension. The exact amount of this contribution is agreed upon by the State of Maharashtra and the Union Government. If they cannot reach an agreement, an arbitrator appointed by the Chief Justice of India will determine the contribution amount.

##### Example 2:

A Commission is set up by the Union Government to investigate environmental issues affecting multiple states, including Karnataka and Tamil Nadu. The expenses of this Commission are initially charged on the Consolidated Fund of India. However, since the Commission's work specifically addresses issues in Karnataka and Tamil Nadu, these states are required to contribute to the expenses. The contribution amount is negotiated between the Union Government and the respective state governments. If they fail to agree, an arbitrator appointed by the Chief Justice of India will decide the contribution each state must make.



### **Article 290A: Annual payment to certain Devaswom Funds.**

A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Tamil Nadu every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.

### **Simplified act**

Every year, the State of Kerala will take forty-six lakhs and fifty thousand rupees from its main financial account (called the Consolidated Fund) and give it to the Travancore Devaswom Fund.

Every year, the State of Tamil Nadu will take thirteen lakhs and fifty thousand rupees from its main financial account (also called the Consolidated Fund) and give it to the Devaswom Fund in Tamil Nadu. This money is for taking care of Hindu temples and shrines that were transferred to Tamil Nadu from Travancore-Cochin on November 1, 1956.

### **Explanation using Example**

#### **Example 1:**

Ravi, a resident of Kerala, is curious about how the state funds are utilized for religious purposes. He learns that every year, a sum of forty-six lakhs and fifty thousand rupees is allocated from the Consolidated Fund of the State of Kerala to the Travancore Devaswom Fund. This fund is specifically used for the maintenance and upkeep of Hindu temples and shrines in the state. Ravi visits a local temple and notices the well-maintained premises and the various religious activities being conducted. He understands that part of the funding for these activities comes from the annual payment mandated by Article 290A of the Constitution of India.

#### **Example 2:**

Lakshmi, a devotee from Tamil Nadu, often visits the temples in the regions that were transferred from the State of Travancore-Cochin to Tamil Nadu on November 1, 1956. She is pleased to see that these temples are well-maintained and continue to be centers of cultural and religious activities. Upon

inquiring, she finds out that every year, thirteen lakhs and fifty thousand rupees are allocated from the Consolidated Fund of the State of Tamil Nadu to the Devaswom Fund. This fund is used for the maintenance of these specific temples and shrines, ensuring that they remain in good condition for devotees like her. This allocation is a result of the provisions laid out in Article 290A of the Constitution of India.

### **Article 291: Privy Purse sums of Rulers: Omitted.**

Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (with effect from 28-12-1971).

### **Simplified act**

Removed by the Constitution (Twenty-sixth Amendment) Act, 1971, section 2 (effective from December 28, 1971).

Explanation using Example

Example 1:

Scenario: Maharaja Singh was the ruler of a princely state before India gained independence. After independence, he was entitled to receive a privy purse, a payment made to him by the Government of India as part of the agreement for his state to join the Indian Union. However, after the Constitution (Twenty-sixth Amendment) Act, 1971, this provision was omitted.

Explanation: Maharaja Singh used to receive an annual payment from the government as a privy purse. After the amendment in 1971, this payment was stopped. Maharaja Singh can no longer claim this amount as the legal provision allowing it has been removed from the Constitution.

Example 2:

Scenario: Princess Aditi, the daughter of a former ruler, was planning to use the privy purse funds for the maintenance of her ancestral palace. She was relying on the annual payment that her family used to receive from the government. However, she finds out that the privy purse provision has been omitted.

Explanation: Princess Aditi cannot receive any funds from the government under the privy purse provision because it was abolished in 1971. She will need to find alternative means to maintain her ancestral palace as the legal basis for the privy purse no longer exists.

## **CHAPTER II: BORROWING**

### **Article 292: Borrowing by the Government of India.**

The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

### **Simplified act**

The central government's authority includes the ability to borrow money using the Consolidated Fund of India as security, but only up to certain limits that Parliament may set by law from time to time. The central government can also provide guarantees within those same limits set by Parliament.

Explanation using Example

Example 1:

The Government of India decides to undertake a large infrastructure project to build new highways across the country. To fund this project, the government needs to borrow a significant amount of money. According to Article 292, the government can borrow this money by issuing bonds that are secured by the Consolidated Fund of India. However, the total amount that can be borrowed is subject to limits set by Parliament. In this case, Parliament has previously set a borrowing limit of ₹10 lakh crore for such projects. The government ensures that the total borrowing does not exceed this limit and proceeds to issue bonds to raise the necessary funds.

Example 2:

The Government of India wants to support a struggling public sector company by providing a financial guarantee to help it secure a loan from a bank. According to Article 292, the government can provide such guarantees, but only within the limits set by Parliament. Suppose Parliament has set a limit of ₹2 lakh crore for the total amount of guarantees that the government can provide in a fiscal year. The government checks its records and finds that it has already provided guarantees worth ₹1.5 lakh crore this year. Since the new guarantee of ₹50,000 crore for the public sector company will not exceed the remaining limit, the government proceeds to provide the guarantee, ensuring the company can secure the loan.

### **Article 293: Borrowing by States.**

(1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

### **Simplified act**

(1) According to this article, a State can borrow money within India using the State's Consolidated Fund as security. However, this borrowing must be within limits set by the State's Legislature. The State can also give guarantees within these limits.

(2) The Government of India can lend money to any State or provide guarantees for loans taken by any State, as long as the limits set by article 292 are not exceeded. The money needed for these loans will come from the Consolidated Fund of India, and this will be done according to conditions set by laws made by Parliament.

(3) A State cannot take a new loan without the permission of the Government of India if it still owes money on a previous loan given by the Government of India or its predecessor, or if there is an outstanding guarantee given by the Government of India or its predecessor.

(4) The Government of India can give permission for a new loan under clause (3), but it can also set conditions for this permission if it thinks it is necessary.

## Explanation using Example

### Example 1:

Scenario: The State of Maharashtra wants to borrow ₹10,000 crores to fund a new infrastructure project.

#### Application of Article 293:

Clause (1): Maharashtra can borrow this amount within India using the security of its Consolidated Fund, but it must adhere to any borrowing limits set by its State Legislature.

Clause (2): If Maharashtra needs additional funds beyond its borrowing capacity, it can request a loan from the Government of India, which can provide the loan under conditions set by Parliament.

Clause (3): If Maharashtra already has an outstanding loan from the Government of India, it cannot raise a new loan without the consent of the Government of India.

Clause (4): The Government of India may grant consent for Maharashtra to raise the new loan, but it can impose conditions, such as requiring Maharashtra to use the funds for specific purposes or to adhere to certain repayment terms.

### Example 2:

Scenario: The State of Tamil Nadu has an outstanding loan of ₹5,000 crores from the Government of India and wants to borrow an additional ₹2,000 crores for a healthcare project.

#### Application of Article 293:

Clause (1): Tamil Nadu can borrow within India using the security of its Consolidated Fund, but it must follow any limits set by its State Legislature.

Clause (2): Tamil Nadu can request a loan from the Government of India if it needs more funds, and the Government of India can provide this loan under conditions set by Parliament.

Clause (3): Since Tamil Nadu has an outstanding loan from the Government of India, it cannot raise the additional ₹2,000 crores without the consent of the Government of India.

Clause (4): The Government of India may grant consent for Tamil Nadu to raise the new loan, but it may impose conditions, such as requiring Tamil Nadu to prioritize repayment of the existing loan or to use the new loan specifically for the healthcare project.

Example 3:

Scenario: The State of Karnataka wants to provide a guarantee for a ₹1,000 crore loan taken by a state-owned enterprise to develop renewable energy projects.

Application of Article 293:

Clause (1): Karnataka can provide a guarantee for the loan within the limits set by its State Legislature.

Clause (2): If Karnataka needs to provide a guarantee beyond its capacity, it can request the Government of India to provide the guarantee, provided it does not exceed the limits set under Article 292.

Clause (3): If Karnataka has an outstanding loan or guarantee from the Government of India, it cannot provide a new guarantee without the consent of the Government of India.

Clause (4): The Government of India may grant consent for Karnataka to provide the new guarantee, but it may impose conditions, such as requiring Karnataka to ensure the state-owned enterprise meets certain financial criteria or to limit the guarantee to specific aspects of the renewable energy project.

### **CHAPTER III: PROPERTY, CONTRACTS, RIGHTS, LIABILITIES, OBLIGATIONS AND SUITS**

**Article 294: Succession to property, assets, rights, liabilities and obligations in certain cases.**

As from the commencement of this Constitution

(a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and

(b) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

### **Simplified act**

From the start of this Constitution -

(a) all property and assets that were owned by His Majesty for the Government of India and each Governor's Province before this Constitution started will now belong to the Union (central government) and the respective State, and

(b) all rights, responsibilities, and obligations of the Government of India and each Governor's Province, whether from contracts or other reasons, will now be the rights, responsibilities, and obligations of the Government of India and the respective State,

subject to any changes made or to be made because of the creation of Pakistan or the Provinces of West Bengal, East Bengal, West Punjab, and East Punjab before this Constitution started.

Explanation using Example

Example 1:

Scenario: Transfer of Government Buildings

Context: Before the commencement of the Constitution of India, a government building in Delhi was owned by His Majesty for the purposes of the Government of the Dominion of India.

Application of Article 294:

After the commencement of the Constitution, this building automatically becomes the property of the Union Government of India.

The Union Government now has all the rights to use, manage, and maintain this building.

Explanation: This example illustrates how government properties that were under British rule transitioned to the Indian government after the Constitution came into effect.

#### Example 2:

##### Scenario: Settlement of Government Contracts

Context: Before the commencement of the Constitution, the Government of the Dominion of India had entered into a contract with a private company for the supply of railway equipment.

##### Application of Article 294:

After the commencement of the Constitution, the rights and obligations under this contract are transferred to the Government of India.

The Government of India is now responsible for fulfilling the contract terms, including payment and receipt of goods.

Explanation: This example shows how existing contracts and obligations of the British government were transferred to the Indian government, ensuring continuity and honoring of agreements.

#### Example 3:

##### Scenario: Liability for Government Loans

Context: Before the commencement of the Constitution, the Government of the Dominion of India had taken a loan from a foreign bank for infrastructure development.

##### Application of Article 294:

After the commencement of the Constitution, the liability to repay this loan is transferred to the Government of India.

The Government of India is now responsible for making repayments according to the loan agreement.

Explanation: This example demonstrates how financial liabilities of the British government were assumed by the Indian government, ensuring that debts were honored and repaid.

#### Example 4:



## Scenario: Transfer of Provincial Assets

Context: Before the commencement of the Constitution, a piece of agricultural land in Punjab was owned by His Majesty for the purposes of the Government of the Governor's Province of Punjab.

Application of Article 294:

After the commencement of the Constitution, this land becomes the property of the State Government of Punjab.

The State Government of Punjab now has all the rights to use, manage, and maintain this land.

Explanation: This example illustrates how properties owned by provincial governments under British rule were transferred to the respective state governments in India after the Constitution came into effect.

### **Article 295: Succession to property, assets, rights, liabilities and obligations in other cases.**

Article - (1)

As from the commencement of this Constitution -

(a) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(b) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List, subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

Article - (2)

Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

### **Simplified act**

#### Article - (1)

From the start of this Constitution:

(a) All property and assets that belonged to any Indian State listed in Part B of the First Schedule will now belong to the Union (central government), if they were used for purposes that are now the responsibility of the Union according to the Union List.

(b) All rights, liabilities, and obligations of the government of any Indian State listed in Part B of the First Schedule will now be the rights, liabilities, and obligations of the Government of India. This applies if they were for purposes that are now the responsibility of the Government of India according to the Union List, unless there is an agreement between the Government of India and the government of that State saying otherwise.

#### Article - (2)

Except for what is mentioned above, the government of each State listed in Part B of the First Schedule will take over all property, assets, rights, liabilities, and obligations of the corresponding Indian State from the start of this Constitution. This includes everything, whether it comes from a contract or something else, except for those mentioned in Article (1).

Explanation using Example

#### Example 1:

Scenario: Transfer of a historical monument

Context: Before the commencement of the Constitution of India, a historical monument was under the ownership of the princely state of Mysore, which is now part of Karnataka (a state specified in Part B of the First Schedule).

Application of Article 295(1)(a): After the commencement of the Constitution, the ownership of this historical monument, which was previously vested in the

princely state of Mysore, now vests in the Union of India. This is because the monument is considered a national heritage site, a matter enumerated in the Union List.

Outcome: The Union Government now has the responsibility for the maintenance, preservation, and administration of the historical monument.

#### Example 2:

Scenario: Settlement of a contractual obligation

Context: Before the commencement of the Constitution, the princely state of Hyderabad had entered into a contract with a private company for the construction of a dam. Hyderabad is a state specified in Part B of the First Schedule.

Application of Article 295(1)(b): After the commencement of the Constitution, the rights and obligations arising from this contract, which were initially the responsibility of the princely state of Hyderabad, now become the rights and obligations of the Government of India. This is because the construction of the dam relates to water resources, a matter enumerated in the Union List.

Outcome: The Government of India is now responsible for fulfilling the contractual obligations, including any payments or legal responsibilities, associated with the construction of the dam.

#### Example 3:

Scenario: Transfer of state-owned university assets

Context: Before the commencement of the Constitution, a university was established and owned by the princely state of Travancore, which is now part of Kerala (a state specified in Part B of the First Schedule).

Application of Article 295(2): After the commencement of the Constitution, the assets, rights, liabilities, and obligations of the university, which were previously under the princely state of Travancore, now transfer to the Government of Kerala. This is because the university's operations do not fall under the matters enumerated in the Union List but are instead a state matter.

Outcome: The Government of Kerala now has the responsibility for the administration, funding, and management of the university.

#### Example 4:

Scenario: Settlement of a debt

Context: Before the commencement of the Constitution, the princely state of Bhopal had taken a loan from a bank for infrastructure development. Bhopal is a state specified in Part B of the First Schedule.

Application of Article 295(2): After the commencement of the Constitution, the liability to repay the loan, which was initially the responsibility of the princely state of Bhopal, now becomes the responsibility of the Government of Madhya Pradesh (the successor state).

Outcome: The Government of Madhya Pradesh is now responsible for repaying the loan to the bank, including any interest or penalties associated with it.

**Article 296: Property accruing by escheat or lapse or as bona vacantia.**

Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

Explanation. - In this article, the expressions "Ruler" and "Indian State" have the same meanings as in article 363.

**Simplified act**

If there is any property in India that would have gone to the British King or an Indian ruler because there was no rightful owner, it will now belong to the State where the property is located. If the property is not in any State, it will belong to the central government (the Union).

However, if the property was already being used or controlled by the Indian government or a State government at the time it would have gone to the British King or an Indian ruler, it will continue to belong to the government that was

using it. If it was used for central government purposes, it will belong to the Union. If it was used for State purposes, it will belong to that State.

Explanation. - In this article, "Ruler" and "Indian State" mean the same as they do in article 363.

Explanation using Example

Example 1:

Scenario: A wealthy individual named Mr. Sharma passes away without any legal heirs or a will.

Application of Article 296:

Since Mr. Sharma has no legal heirs or a will, his property would be considered as having no rightful owner (*bona vacantia*).

According to Article 296, if Mr. Sharma's property is located in the state of Maharashtra, it will vest in the State of Maharashtra.

If the property was located in a Union Territory like Delhi, it would vest in the Union Government.

Example 2:

Scenario: A small princely state in India, which was under the rule of a local king, becomes part of the Indian Union after independence. The king passes away without any heirs or a will.

Application of Article 296:

Before the Constitution of India came into operation, the property of the king would have accrued to the Ruler of the Indian State by escheat or lapse.

After the Constitution came into effect, such property, if located within a state like Rajasthan, would vest in the State of Rajasthan.

If the property was under the control of the Government of India at the time of the king's death and was used for Union purposes, it would vest in the Union Government.

Example 3:

Scenario: A company in Karnataka goes bankrupt and is dissolved without any remaining shareholders or claimants to its assets.

Application of Article 296:

The assets of the dissolved company would be considered as having no rightful owner (bona vacantia).

According to Article 296, since the company's assets are located in Karnataka, they would vest in the State of Karnataka.

If any of the company's assets were under the control of the Government of India for Union purposes at the time of dissolution, those assets would vest in the Union Government.

Example 4:

Scenario: An abandoned piece of land in Tamil Nadu has no known owner and has not been claimed by anyone for decades.

Application of Article 296:

The abandoned land would be considered as having no rightful owner (bona vacantia).

According to Article 296, since the land is located in Tamil Nadu, it would vest in the State of Tamil Nadu.

If the land was under the control of the Government of India and used for Union purposes, it would vest in the Union Government.

**Article 297: Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.**

Maritime Zones of India

(1) All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India shall vest in the Union and be held for the purposes of the Union.

(2) All other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union.

(3) The limits of the territorial waters, the continental shelf, the exclusive economic zone, and other maritime zones, of India shall be such as may be specified, from time to time, by or under any law made by Parliament.

**Simplified act**

## Maritime Zones of India

- (1) All land, minerals, and valuable things found under the ocean within India's territorial waters, continental shelf, or exclusive economic zone belong to the Indian government and are to be used for the country's benefit.
- (2) All other resources in India's exclusive economic zone also belong to the Indian government and are to be used for the country's benefit.
- (3) The boundaries of India's territorial waters, continental shelf, exclusive economic zone, and other maritime areas will be defined by laws made by the Indian Parliament.

### Explanation using Example

#### Example 1:

Scenario: A foreign company discovers a large deposit of natural gas within the exclusive economic zone (EEZ) of India, approximately 150 nautical miles off the coast of Gujarat.

Application of Article 297: According to Article 297, any natural resources found within the EEZ of India belong to the Union. Therefore, the foreign company cannot claim ownership of the natural gas deposit. Instead, they must enter into an agreement with the Indian government, which has the exclusive right to exploit these resources. The Union government may grant the company a license or lease to extract the natural gas, subject to Indian laws and regulations.

#### Example 2:

Scenario: An Indian fisherman finds a sunken ship with valuable artifacts within the territorial waters of India, about 10 nautical miles off the coast of Tamil Nadu.

Application of Article 297: Under Article 297, any valuable items found within the territorial waters of India belong to the Union. The fisherman cannot claim ownership of the artifacts. Instead, he must report the find to the appropriate authorities. The Union government will then decide how to handle the artifacts, which may involve recovering and preserving them in a national museum or auctioning them off, with the proceeds going to the Union.

#### Example 3:

Scenario: An Indian company wants to set up an offshore wind farm on the continental shelf, 50 nautical miles off the coast of Maharashtra.

Application of Article 297: Since the continental shelf is under the jurisdiction of the Union, the Indian company must obtain permission from the Union government to set up the offshore wind farm. The Union government will assess the proposal and may grant a lease or license for the project, ensuring that it complies with national regulations and serves the interests of the Union.

Example 4:

Scenario: A marine biologist discovers a new species of fish within the exclusive economic zone of India, 200 nautical miles off the coast of Kerala.

Application of Article 297: The discovery of the new species falls under the resources of the exclusive economic zone, which are vested in the Union. The marine biologist must report the discovery to the Union government. The government may then decide on the appropriate measures to protect and study the new species, potentially involving research grants or conservation efforts.

Example 5:

Scenario: A treasure hunting expedition finds a chest of gold coins on the seabed within the continental shelf of India, 70 nautical miles off the coast of Andhra Pradesh.

Application of Article 297: The chest of gold coins is considered a valuable item found within the continental shelf, which belongs to the Union. The treasure hunters must report their find to the Union government. The government will then take possession of the gold coins and decide on their disposition, which could include adding them to the national treasury or displaying them in a museum.

### **Article 298: Power to carry on trade, etc.**

The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that -

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and



(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament.

### **Simplified act**

The government of the country (Union) and each individual state can:

Run any trade or business.

Buy, hold, and sell property.

Make contracts for any purpose.

However:

(a) The Union's power to do these things in a state is limited by the state's laws if the trade, business, or purpose is something the state can make laws about.

(b) Similarly, a state's power to do these things is limited by national laws if the trade, business, or purpose is something the national government can make laws about.

Explanation using Example

Example 1:

The Government of India decides to start a new airline company to improve connectivity between remote areas and major cities. This falls under the executive power of the Union to carry on trade or business. However, if the airline operates within a particular state and the state has specific laws regulating aviation businesses, the Union's power will be subject to those state laws unless Parliament has legislated otherwise.

Example 2:

The State Government of Maharashtra wants to set up a chain of state-run grocery stores to provide affordable food to low-income families. This is an exercise of the state's executive power to carry on trade or business. However, if there are central laws governing the retail sector, the state's power to run these stores will be subject to those central laws unless the state legislature has the authority to legislate on that matter.

Example 3:

The Government of Karnataka decides to acquire land to build a new industrial park to boost local employment. This is an exercise of the state's executive power to acquire and hold property. However, if there are central laws regarding land acquisition, the state's actions will be subject to those laws unless the state legislature has the authority to legislate on land acquisition.

Example 4:

The Union Government enters into a contract with a private company to build a new highway connecting multiple states. This is an exercise of the Union's executive power to make contracts for any purpose. If the highway passes through a state with specific regulations on infrastructure projects, the Union's power will be subject to those state laws unless Parliament has legislated otherwise.

Example 5:

The State Government of Tamil Nadu decides to sell a piece of state-owned land to a private developer for building a residential complex. This is an exercise of the state's executive power to dispose of property. However, if there are central laws governing the sale of government property, the state's actions will be subject to those laws unless the state legislature has the authority to legislate on the matter.

### **Article 299: Contracts.**

(1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor \* \* \* of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor \* \* \* by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor \* \* \* shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

### **Simplified act**

(1) All contracts made by the central government or a state government must be officially stated to be made by the President or the Governor of the state. These contracts and any property agreements made by the government must be carried out by people authorized by the President or the Governor.

(2) The President or the Governor will not be personally responsible for any contract or property agreement made for the purposes of the Constitution or any law related to the Government of India. Also, the people who make or carry out these contracts or agreements on their behalf will not be personally responsible either.

#### Explanation using Example

##### Example 1:

The Government of India decides to build a new highway connecting two major cities. The contract for the construction is made under the executive power of the Union. The contract document states that it is made by the President of India, but it is signed by the Secretary of the Ministry of Road Transport and Highways, who is authorized by the President to execute such contracts. If there are any issues with the construction, neither the President nor the Secretary will be personally liable; the liability will rest with the government.

##### Example 2:

The State Government of Maharashtra wants to lease a piece of land to a private company for setting up a solar power plant. The lease agreement is made under the executive power of the State and is expressed to be made by the Governor of Maharashtra. The agreement is signed by the Principal Secretary of the Department of Energy, who has been authorized by the Governor to execute such agreements. If any disputes arise regarding the lease, neither the Governor nor the Principal Secretary will be personally liable; the liability will be with the state government.

#### **Article 300: Suits and proceedings.**

(1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding

Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution -

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

### **Simplified act**

(1) The Government of India can be taken to court or can take someone to court using the name "Union of India." Similarly, the Government of a State can be taken to court or can take someone to court using the name of that State. This can happen in the same way as it did before the Constitution was created, unless a new law says otherwise.

(2) When this Constitution started:

(a) If there were any ongoing legal cases involving the Dominion of India, the Union of India will take the place of the Dominion in those cases.

(b) If there were any ongoing legal cases involving a Province or an Indian State, the new State will take the place of the old Province or Indian State in those cases.

Explanation using Example

Example 1:

Scenario: A construction company enters into a contract with the Government of Maharashtra to build a highway. However, due to delays in payment from the government, the construction company decides to sue for breach of contract.

Application of Article 300:

The construction company can file a lawsuit against the Government of Maharashtra by naming it as the defendant in the case.

The lawsuit will be titled "Construction Company vs. State of Maharashtra."

The case will proceed in the same manner as it would have if the Constitution of India had not been enacted, following the legal procedures and rights that were in place before the Constitution.

#### Example 2:

Scenario: A farmer in Punjab has a dispute with the state government over the acquisition of his land for a public project. The farmer believes the compensation offered is inadequate and decides to take legal action.

#### Application of Article 300:

The farmer can sue the Government of Punjab by naming it as the defendant in the lawsuit.

The lawsuit will be titled "Farmer vs. State of Punjab."

The legal proceedings will follow the same rules and procedures that were applicable before the Constitution of India was enacted, ensuring that the farmer's rights are protected under the law.

#### Example 3:

Scenario: A software company had a contract with the Dominion of India before the Constitution of India was enacted. The company had delivered the software, but payment was still pending when the Constitution came into effect.

#### Application of Article 300:

Since the legal proceedings were pending at the commencement of the Constitution, the Union of India will be substituted for the Dominion of India in the lawsuit.

The lawsuit will now be titled "Software Company vs. Union of India."

The case will continue as if the Union of India was the original party to the contract, ensuring continuity and legal clarity.

#### Example 4:

Scenario: A citizen of Tamil Nadu files a lawsuit against the state government for damages caused by a government project that affected his property. The case was initially filed when Tamil Nadu was a province before the Constitution was enacted.

Application of Article 300:

Since the legal proceedings were pending at the commencement of the Constitution, the State of Tamil Nadu will be substituted for the Province of Tamil Nadu in the lawsuit.

The lawsuit will now be titled "Citizen vs. State of Tamil Nadu."

The case will proceed as if the State of Tamil Nadu was the original party, ensuring that the citizen's legal rights are maintained.

Example 5:

Scenario: A public interest litigation is filed against the Union of India for failing to implement environmental regulations that were in place before the Constitution was enacted.

Application of Article 300:

The lawsuit can be filed against the Union of India by naming it as the defendant.

The lawsuit will be titled "Public Interest Group vs. Union of India."

The case will proceed under the same legal framework that existed before the Constitution, ensuring that the government's responsibilities and the public's rights are upheld.

#### **CHAPTER IV: RIGHT TO PROPERTY**

**Article 300A: Persons not to be deprived of property save by authority of law.**

No person shall be deprived of his property save by authority of law.

#### **PART XIII: TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA**

**Article 301: Freedom of trade, commerce and intercourse.**

Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

**Simplified act**

As long as it follows the other rules in this section, trade, business, and movement of goods and people across India are allowed without restrictions.

Explanation using Example

Example 1:

Rajesh owns a textile business in Tamil Nadu and wants to expand his market to Maharashtra. According to Article 301 of the Constitution of India, Rajesh is free to transport his goods from Tamil Nadu to Maharashtra without any restrictions or additional taxes imposed by either state. This ensures that Rajesh can conduct his business smoothly across state borders, promoting economic unity and growth.

Example 2:

A farmer in Punjab grows wheat and wants to sell his produce in Delhi. Under Article 301, the farmer can freely transport his wheat to Delhi without facing any barriers or tariffs imposed by the state governments. This provision helps the farmer access a larger market, ensuring better prices for his produce and contributing to the overall economic integration of the country.

**Article 302: Power of Parliament to impose restrictions on trade, commerce and intercourse.**

Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

**Simplified act**

The Parliament can make laws to limit the freedom of trade, business, or movement of goods between different states or within any part of India if it is necessary for the public good.

Explanation using Example

Example 1:

The Parliament of India passes a law that restricts the movement of certain agricultural products between states to prevent the spread of a plant disease. For instance, if there is an outbreak of a pest in Maharashtra that affects mango crops, the Parliament may impose restrictions on the trade of mangoes

from Maharashtra to other states to protect the agricultural interests of the entire country.

Example 2:

To ensure public health and safety, the Parliament enacts a law that restricts the sale and transportation of fireworks during certain times of the year. For example, during the festival of Diwali, the Parliament may impose restrictions on the interstate trade of fireworks to prevent accidents and reduce pollution levels, thereby serving the public interest.

**Article 303: Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.**

(1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule.

(2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

**Simplified act**

(1) Despite what is said in article 302, neither the Parliament nor the State Legislature can make any law that favors one State over another or discriminates between States when it comes to trade and commerce, as listed in the Seventh Schedule.

(2) However, clause (1) does not stop Parliament from making laws that favor or discriminate between States if the law specifically states that it is necessary to handle a situation where there is a shortage of goods in any part of India.

Explanation using Example

Example 1:

The central government decides to implement a new tax policy that reduces the Goods and Services Tax (GST) for businesses operating in Maharashtra but not



for those in Karnataka. This would be a violation of Article 303(1) because it gives preference to one state over another in matters of trade and commerce. Under this article, neither the Parliament nor the state legislature has the power to enact such a law.

Example 2:

Due to a severe drought, there is an acute shortage of essential commodities like rice and wheat in the state of Rajasthan. To address this crisis, Parliament enacts a law that prioritizes the supply of these essential goods to Rajasthan over other states. This action is permissible under Article 303(2) because the law explicitly states that the preference is necessary to deal with the scarcity of goods in Rajasthan.

### **Article 304: Restrictions on trade, commerce and intercourse among States.**

Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law -

(a) impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

### **Simplified act**

Even though articles 301 and 303 say otherwise, the State Legislature can:

(a) Put a tax on goods coming from other States or Union territories, as long as the same tax is also applied to similar goods made or produced within the State. This means they can't treat imported goods differently from local goods; and

(b) Place reasonable limits on trade, business, or movement of goods within or into the State if it's necessary for the public good.

However, any new law or change to the law for the purposes mentioned in clause (b) must get the President's approval before being introduced or discussed in the State Legislature.

Explanation using Example

Example 1:

Scenario: A state government in India, say Maharashtra, decides to impose a tax on all electronic goods sold within the state to boost its revenue.

Application of Article 304(a): Maharashtra can impose a tax on electronic goods imported from other states like Karnataka or Gujarat, but this tax must be the same as the tax imposed on electronic goods manufactured within Maharashtra. This ensures that there is no discrimination between goods imported from other states and those produced locally.

Example: If Maharashtra imposes a 10% tax on electronic goods manufactured within the state, it must also impose a 10% tax on electronic goods imported from Karnataka or Gujarat. This maintains a level playing field for all electronic goods sold in Maharashtra.

Example 2:

Scenario: The state of Kerala wants to regulate the sale of certain agricultural products to ensure food safety and public health.

Application of Article 304(b): Kerala can impose reasonable restrictions on the trade of these agricultural products within the state if it is in the public interest. However, before introducing such a bill or amendment, Kerala must obtain the previous sanction of the President of India.

Example: Kerala decides to implement stringent quality checks on all vegetables sold within the state to prevent the sale of contaminated produce. This restriction is deemed necessary for public health. Before this regulation can be enforced, Kerala must get approval from the President. Once approved, the state can legally enforce these quality checks on vegetables, whether they are grown within Kerala or imported from other states.

**Article 305: Saving of existing laws and laws providing for State monopolies.**

Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise direct; and nothing in

article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the Legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (ii) of clause (6) of article 19.

### **Simplified act**

Articles 301 and 303 won't change any existing laws unless the President decides otherwise.

Article 301 won't change any laws made before the Constitution (Fourth Amendment) Act, 1955.

Article 301 also won't stop Parliament or State Legislatures from making laws about the matters mentioned in sub-clause (ii) of clause (6) of article 19.

Explanation using Example

Example 1:

Scenario: The State of Maharashtra has an existing law that grants it a monopoly over the production and sale of alcohol within the state. This law was enacted before the Constitution (Fourth Amendment) Act, 1955.

Application: According to Article 305, this existing law will not be affected by Articles 301 and 303, which generally promote free trade and commerce across India. Therefore, Maharashtra can continue to enforce its monopoly on alcohol production and sale unless the President issues an order to the contrary.

Example 2:

Scenario: The Parliament of India decides to pass a new law that establishes a state monopoly over the distribution of electricity across the country. This law is aimed at ensuring uniform pricing and quality of electricity supply.

Application: Article 305 allows Parliament to make such a law despite the general provisions of Article 301, which promotes free trade and commerce. This means that the new law establishing a state monopoly on electricity distribution will be valid and enforceable, even though it restricts free trade in electricity.

Example 3:

Scenario: The State of Tamil Nadu has an existing law that regulates the fishing industry within its territorial waters, granting exclusive fishing rights to local fishermen. This law was enacted before the Constitution (Fourth Amendment) Act, 1955.

Application: Under Article 305, this existing law will not be affected by Article 301, which generally promotes free trade and commerce. Tamil Nadu can continue to enforce its exclusive fishing rights law unless the President issues an order to the contrary.

Example 4:

Scenario: The Government of India wants to introduce a new law that grants a state-owned company the exclusive right to mine and sell coal in India. This law is intended to ensure better regulation and control over coal resources.

Application: Article 305 permits the Parliament to enact such a law, even though it restricts free trade in coal, as promoted by Article 301. Therefore, the new law granting exclusive mining rights to the state-owned company will be valid and enforceable.

**Article 306: Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce: Omitted**

Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule (with effect from 1-11-1956).

**Simplified act**

This part of the law was removed by the Constitution (Seventh Amendment) Act, 1956, section 29 and the Schedule, starting from November 1, 1956.

Explanation using Example

Example 1:

Before the Constitution (Seventh Amendment) Act, 1956, imagine the state of Mysore (now Karnataka) wanted to impose a special tax on goods coming from the state of Madras (now Tamil Nadu) to protect its local industries. Article 306 would have allowed Mysore to impose such restrictions on trade and commerce. However, after the amendment, this power was removed, ensuring free trade and commerce between these states.

Example 2:

Consider a scenario where the state of Hyderabad (before it was merged into Andhra Pradesh) wanted to restrict the import of certain agricultural products from the neighboring state of Bombay (now Maharashtra) to support its local farmers. Article 306 would have given Hyderabad the authority to impose such restrictions. However, post the Seventh Amendment in 1956, Hyderabad could no longer impose these restrictions, promoting a unified market across India.

**Article 307: Appointment of authority for carrying out the purposes of articles 301 to 304.**

Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

**Simplified act**

Parliament can create a law to appoint an authority it thinks is suitable to handle the tasks mentioned in articles 301, 302, 303, and 304.

Parliament can give this appointed authority the powers and responsibilities it believes are needed to do the job.

Explanation using Example

Example 1:

The Indian Parliament decides to promote free trade across state borders to enhance economic growth. To achieve this, they appoint a "National Trade Facilitation Authority" (NTFA). The NTFA is given the power to oversee and ensure that no state imposes unreasonable restrictions on the movement of goods, as per Article 301. Additionally, the NTFA is tasked with resolving disputes between states regarding trade barriers and ensuring compliance with Articles 302, 303, and 304, which deal with restrictions on trade and commerce.

Example 2:

To address the issue of discriminatory taxes imposed by some states on goods coming from other states, the Parliament enacts a law to establish the "Interstate Commerce Commission" (ICC). The ICC is empowered to monitor and regulate state taxation policies to ensure they do not violate Article 303, which prohibits discrimination between states. The ICC also has the authority to recommend changes to state laws that conflict with the principles of free

trade and commerce as outlined in Articles 301 to 304, ensuring a uniform and fair trading environment across India.

## **PART XIV: SERVICES UNDER THE UNION AND THE STATES**

### **CHAPTER I: SERVICES**

#### **Article 308: Interpretation.**

In this Part, unless the context otherwise requires, the expression "State" does not include the State of Jammu and Kashmir.

#### **Simplified act**

In this section, unless it clearly means something else, the term "State" does not include Jammu and Kashmir.

Explanation using Example

Example 1:

Scenario: A government employee working in the state of Maharashtra is transferred to a central government position. He wants to know if the rules and regulations under Part XIV of the Constitution of India apply to him.

Explanation: According to Article 308, the term "State" in this part does not include the State of Jammu and Kashmir. Therefore, the rules and regulations under Part XIV apply to all states except Jammu and Kashmir. Since the employee is in Maharashtra, these rules and regulations are applicable to him.

Example 2:

Scenario: A civil servant in the state of Jammu and Kashmir is seeking clarification on whether the provisions under Part XIV of the Constitution of India apply to his service conditions.

Explanation: As per Article 308, the term "State" does not include the State of Jammu and Kashmir in this part of the Constitution. Therefore, the provisions under Part XIV, which deal with services under the Union and the States, do not apply to civil servants in Jammu and Kashmir. The civil servant would need to refer to the specific laws and regulations applicable to Jammu and Kashmir.

## **Article 309: Recruitment and conditions of service of persons serving the Union or a State.**

Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor \* \* \* of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

### **Simplified act**

Subject to the rules of this Constitution, laws made by the appropriate Legislature can control how people are hired and the terms of their jobs in public services and positions related to the Union (central government) or any State:

However, the President or someone he chooses can make rules about hiring and job terms for positions related to the Union, and the Governor of a State or someone he chooses can make rules for positions related to the State. These rules will apply until the appropriate Legislature makes a law on the matter, and any rules made will follow the provisions of such a law.

Explanation using Example

Example 1:

Scenario: Recruitment of Teachers in a State Government School

Situation: The State Government of Maharashtra wants to recruit new teachers for its public schools.

Application of Article 309:

The Maharashtra State Legislature passes an Act that outlines the recruitment process, qualifications required, and conditions of service for teachers.

Until this Act is passed, the Governor of Maharashtra, or a person authorized by the Governor, can make rules regarding the recruitment and conditions of service for these teaching positions.

These rules will be in effect until the Legislature enacts the specific law, and once the law is enacted, the rules will be subject to the provisions of this new law.

Outcome: The recruitment process for teachers in Maharashtra is regulated by the rules made by the Governor until the State Legislature passes a specific Act. Once the Act is passed, it will govern the recruitment and service conditions of the teachers.

Example 2:

Scenario: Appointment of IAS Officers in the Union Government

Situation: The Union Government of India needs to appoint new Indian Administrative Service (IAS) officers.

Application of Article 309:

The Parliament of India enacts a law that specifies the recruitment process, qualifications, and conditions of service for IAS officers.

Until this law is enacted, the President of India, or a person authorized by the President, can make rules regarding the recruitment and conditions of service for IAS officers.

These rules will remain in effect until the Parliament enacts the specific law, and once the law is enacted, the rules will be subject to the provisions of this new law.

Outcome: The recruitment and service conditions of IAS officers are initially regulated by the rules made by the President until the Parliament enacts a specific law. Once the law is enacted, it will govern the recruitment and service conditions of the IAS officers.

### **Article 310: Tenure of office of persons serving the Union or a State.**

(1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who



is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor \* \* \* of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor \* \* \* of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor \* \* \*, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

### **Simplified act**

(1) Unless this Constitution specifically says otherwise, anyone who is a member of the defense services, civil services of the Union, all-India services, or holds any defense or civil position under the Union, works at the pleasure of the President. Similarly, anyone who is a member of a state's civil service or holds any civil position under a state works at the pleasure of the Governor of that state.

(2) Even though someone holding a civil position under the Union or a state works at the pleasure of the President or the Governor, if a person (who is not a member of the defense services, all-India services, or civil services of the Union or a state) is appointed to such a position under this Constitution, a contract can be made to pay them compensation. This compensation is given if the position is eliminated or if the person is asked to leave the position for reasons not related to any wrongdoing on their part, before the agreed period ends. This is to ensure that the services of a person with special qualifications can be secured if the President or the Governor thinks it is necessary.

Explanation using Example

Example 1:

Rajesh is an officer in the Indian Administrative Service (IAS), which is an all-India service. He has been serving diligently in the state of Maharashtra. According to Article 310, Rajesh holds his office during the pleasure of the Governor of Maharashtra. This means that his tenure is not fixed and he can be removed from his position by the Governor at any time, without any specific

reason, as long as it is not arbitrary or in violation of any constitutional provisions.

Example 2:

Meera is a scientist working with the Defence Research and Development Organisation (DRDO), which is a part of the Union's defence services. Her position is under the pleasure of the President of India. This implies that her tenure is subject to the President's discretion. If the President decides that her services are no longer required, she can be removed from her position. However, if Meera had a special contract due to her unique qualifications, and her post is abolished before the contract period ends, she may be entitled to compensation as per the terms of her contract, provided her removal is not due to any misconduct on her part.

**Article 311: Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.**

Section (1)

No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

Section (2)

No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges \* \* \* :

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed :

Provided further that this clause shall not apply -

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry ; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

### Section (3)

If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

## **Simplified act**

### Section (1)

If you work for the government (either at the national or state level), you cannot be fired or removed from your job by someone who is lower in rank than the person who hired you.

### Section (2)

You cannot be fired, removed, or demoted unless:

There is an investigation where you are told what you are being accused of.

You are given a fair chance to explain your side of the story.

However, if after the investigation it is decided to punish you, the punishment can be based on the evidence from the investigation, and you do not need another chance to argue against the punishment.

This rule does not apply if:

(a) You are being fired, removed, or demoted because you were found guilty of a crime.

(b) The person in charge of firing, removing, or demoting you believes it is not possible to have an investigation and writes down the reasons why.

(c) The President or Governor believes that having an investigation is not good for the security of the state.

### Section (3)

If there is a question about whether it is possible to have an investigation, the decision made by the person who has the power to fire, remove, or demote you will be final.

#### Explanation using Example

##### Example 1:

Scenario: Rajesh is a government employee working in the civil services of the State of Maharashtra. He was appointed by the Chief Secretary of the state. One day, Rajesh is accused of misconduct at work.

##### Application of Article 311:

Section (1): Rajesh cannot be dismissed or removed from his position by any authority lower than the Chief Secretary, who appointed him.

Section (2): Before Rajesh can be dismissed, an inquiry must be conducted where he is informed of the charges against him and given a reasonable opportunity to defend himself.

Section (2) Proviso (a): If Rajesh is convicted of a criminal charge related to his misconduct, he can be dismissed without the need for an inquiry.

Section (2) Proviso (b): If the Chief Secretary believes it is not reasonably practicable to hold an inquiry (e.g., due to Rajesh's continuous absence or threats to witnesses), the Chief Secretary can dismiss Rajesh without an inquiry, but must record the reasons in writing.

Section (2) Proviso (c): If the Governor of Maharashtra believes that holding an inquiry is not in the interest of the security of the state, Rajesh can be dismissed without an inquiry.

Section (3): If there is a dispute about whether it is practicable to hold an inquiry, the decision of the Chief Secretary will be final.

##### Example 2:

Scenario: Priya is an officer in the Indian Administrative Service (IAS) working under the Union Government. She is accused of financial irregularities in her department.

##### Application of Article 311:

Section (1): Priya cannot be dismissed or removed by any authority lower than the one that appointed her, which is typically the President of India or a high-ranking official delegated by the President.

Section (2): Before Priya can be dismissed, an inquiry must be conducted where she is informed of the charges and given a chance to present her defense.

Section (2) Proviso (a): If Priya is found guilty of a criminal offense related to the financial irregularities, she can be dismissed without an inquiry.

Section (2) Proviso (b): If the authority empowered to dismiss Priya believes it is not reasonably practicable to hold an inquiry (e.g., due to threats to the inquiry officers or tampering with evidence), they can dismiss her without an inquiry, but must document the reasons.

Section (2) Proviso (c): If the President of India believes that holding an inquiry is not in the interest of national security, Priya can be dismissed without an inquiry.

Section (3): If there is a question about the practicability of holding an inquiry, the decision of the authority empowered to dismiss Priya will be final.

### **Article 312: All-India services.**

(1) Notwithstanding anything in Chapter VI of Part VI or Part XI, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all India services (including an all-India judicial service) common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

(3) The all-India judicial service referred to in clause (1) shall not include any post inferior to that of a district judge as defined in article 236.

(4) The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI as

may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

### **Simplified act**

(1) Despite what is stated in Chapter VI of Part VI or Part XI, if the Council of States (Rajya Sabha) passes a resolution with at least two-thirds of the members present and voting in favor, Parliament can create one or more all-India services (including an all-India judicial service) that are common to both the Union and the States. Parliament can also set the rules for hiring and the working conditions for people in these services, as long as it follows the other rules in this Chapter.

(2) The Indian Administrative Service (IAS) and the Indian Police Service (IPS), which existed when the Constitution started, will be considered as services created by Parliament under this article.

(3) The all-India judicial service mentioned in point (1) will not include any position lower than that of a district judge, as defined in article 236.

(4) The law that creates the all-India judicial service can include changes to Chapter VI of Part VI if needed to make the law effective. Such a law will not be considered an amendment to the Constitution for the purposes of article 368.

#### Explanation using Example

##### Example 1:

The Indian government decides that there is a need for a new All-India Environmental Service to address the growing environmental concerns across the country. The Council of States (Rajya Sabha) passes a resolution with more than two-thirds majority, stating that it is necessary in the national interest to create this service. Following this, the Parliament enacts a law to establish the All-India Environmental Service. This new service will have officers who can be posted in both Union and State governments, and their recruitment and service conditions will be regulated as per the new law.

##### Example 2:

A new All-India Judicial Service is proposed to ensure uniformity and high standards in the judiciary across the country. The Rajya Sabha passes a resolution with the required two-thirds majority, and Parliament enacts a law

to create this service. The law specifies that the new judicial service will include positions such as High Court judges but will not include any posts below the rank of a district judge. The law also amends certain provisions of Chapter VI of Part VI of the Constitution to facilitate the creation and functioning of this new judicial service. This ensures that judges appointed under this service can be posted in any state, maintaining a consistent standard of judicial administration across India.

**Article 312A: Power of Parliament to vary or revoke conditions of service of officers of certain services.**

Article

(1) Parliament may by law -

(a) vary or revoke, whether prospectively or retrospectively, the conditions of services as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any Legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in -

(a) any dispute arising out of any provision of, or any endorsement on, any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;

(b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.

### **Simplified act**

#### Article

(1) Parliament can make laws to:

(a) Change or cancel, either for the future or the past, the job conditions related to pay, leave, and pension, and the rights related to disciplinary matters of people who were appointed by the Secretary of State or Secretary of State in Council to a civil service job in India before the Constitution started. These people continue to work for the Government of India or a State after the Constitution (Twenty-eighth Amendment) Act, 1972, began.

(b) Change or cancel, either for the future or the past, the pension conditions of people who were appointed by the Secretary of State or Secretary of State in Council to a civil service job in India before the Constitution started and who retired or stopped working before the Constitution (Twenty-eighth Amendment) Act, 1972, began:

However, if the person is or was the Chief Justice or a Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or a member of the Union or a State Public Service Commission, or the Chief Election Commissioner, Parliament cannot change or cancel their job



conditions to their disadvantage after they were appointed to these positions, except if those conditions apply to them because they were appointed by the Secretary of State or Secretary of State in Council to a civil service job in India.

(2) Unless Parliament makes a law under this article, nothing in this article affects the power of any Legislature or other authority under any other part of the Constitution to regulate the job conditions of the people mentioned in clause (1).

(3) The Supreme Court or any other court cannot:

(a) Handle any dispute arising from any provision of, or any endorsement on, any agreement or similar document made by any person mentioned in clause (1), or from any letter issued to such person, related to their appointment to any civil service job in India or their continuation in service under the Government of India or a Province.

(b) Handle any dispute about any right, liability, or obligation under article 314 as it was originally written.

(4) This article applies even if it conflicts with article 314 as it was originally written or any other part of the Constitution.

#### Explanation using Example

##### Example 1:

Mr. Sharma was appointed to a civil service position by the Secretary of State in Council before the Indian Constitution came into effect. He continued to serve under the Government of India after the Constitution was enacted. In 2023, Parliament passed a law that changed the pension conditions for such officers, applying the changes retrospectively from 2010. Mr. Sharma's pension amount was reduced as a result of this new law. Although Mr. Sharma was unhappy with the reduction, he could not challenge the law in court because Article 312A(1)(a) allows Parliament to vary or revoke conditions of service, including pensions, retrospectively.

##### Example 2:

Ms. Verma, who was appointed to a civil service position by the Secretary of State before the Constitution came into effect, retired in 1965. In 2023, Parliament passed a law that altered the pension conditions for such retired officers, applying the changes retrospectively from 2000. Ms. Verma's pension

benefits were reduced due to this new law. Despite her dissatisfaction, she could not challenge the law in court because Article 312A(1)(b) permits Parliament to vary or revoke pension conditions retrospectively for officers who retired before the Constitution (Twenty-eighth Amendment) Act, 1972.

**Example 3:**

Justice Rao was appointed as a Judge of the Supreme Court after having been initially appointed to a civil service position by the Secretary of State before the Constitution came into effect. In 2023, Parliament passed a law that changed the conditions of service for such officers, including remuneration and leave. However, since Justice Rao held the office of a Supreme Court Judge, the new law could not disadvantageously alter his conditions of service after his appointment as a Judge, as per the proviso in Article 312A(1).

**Example 4:**

Mr. Singh, who was appointed to a civil service position by the Secretary of State before the Constitution came into effect, had a dispute regarding his pension conditions based on an agreement he signed at the time of his appointment. He wanted to take the matter to court. However, Article 312A(3)(a) states that neither the Supreme Court nor any other court has jurisdiction over disputes arising from such agreements. Therefore, Mr. Singh could not pursue his case in court.

**Example 5:**

Mr. Kumar, who was appointed to a civil service position by the Secretary of State before the Constitution came into effect, continued to serve under the Government of India. In 2023, Parliament passed a law that changed the disciplinary procedures for such officers. Mr. Kumar was subjected to a new disciplinary action under this law. Although he felt the new procedures were unfair, he could not challenge them in court because Article 312A(1)(a) allows Parliament to vary or revoke conditions of service, including disciplinary matters, retrospectively.

**Article 313: Transitional provisions.**

Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India service or as service or post

under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

### **Simplified act**

Until new rules are made under this Constitution, all the laws that were in effect right before this Constitution started will still apply.

These laws will apply to any public service job or position that continues to exist after this Constitution starts.

This includes jobs that are part of an all-India service or jobs under the Union (central government) or a State government.

These laws will continue to be in effect as long as they do not conflict with the new Constitution.

Explanation using Example

Example 1:

Scenario: Rajesh was employed as a government clerk in the state of Maharashtra before the Constitution of India came into effect on January 26, 1950. The rules governing his employment were established by the British colonial administration.

Application of Article 313: After the Constitution came into effect, Rajesh's employment continues to be governed by the same rules that were in place before the Constitution, as long as those rules do not conflict with the new Constitution. This means that until new laws are made under the Constitution to govern his employment, the old rules remain valid.

Example 2:

Scenario: Priya is a police officer in the Indian Police Service (IPS), an all-India service, and she was appointed before the Constitution of India was adopted. The regulations for her service were set by the Government of India Act, 1935.

Application of Article 313: After the Constitution of India came into force, Priya's service conditions continue to be governed by the pre-existing regulations, provided they do not contradict the new Constitution. This ensures a smooth transition and continuity in the functioning of the police service until new regulations are established under the Constitution.

**Article 314: Provision for protection of existing officers of certain services: Omitted.**

Omitted by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 3 (with effect from 29-8-1972).

**Simplified act**

**Simplified act** in Layman's English

This section was removed by the Constitution (Twenty-eighth Amendment) Act, 1972, section 3, and this change took effect on August 29, 1972.

Explanation using Example

Example 1:

Scenario: Rajesh, a senior officer in the Indian Administrative Service (IAS), was appointed before 1972. He is concerned about his job security and benefits after hearing about changes in the Constitution.

Explanation: Before the Constitution (Twenty-eighth Amendment) Act, 1972, Article 314 provided protection to existing officers of certain services, ensuring their job security and benefits. However, this article was omitted in 1972. Despite this omission, Rajesh's job security and benefits are now protected under other provisions and service rules established by the government. The omission of Article 314 does not affect his current status or benefits.

Example 2:

Scenario: Priya, a law student, is researching the historical provisions of the Indian Constitution related to civil services. She comes across Article 314 and is confused about its current relevance.

Explanation: Article 314 was originally included in the Constitution to protect the rights and benefits of officers who were in service at the time of the Constitution's commencement. However, this article was omitted by the Constitution (Twenty-eighth Amendment) Act, 1972. This means that the specific protections under Article 314 are no longer in effect, but similar protections are now covered under other laws and regulations governing civil services in India. Priya should focus on the current legal framework for understanding the protections available to civil servants today.

## **CHAPTER II: PUBLIC SERVICE COMMISSIONS**

### **Article 315: Public Service Commissions for the Union and for the States.**

#### Public Service Commission

- (1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.
- (2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.
- (3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.
- (4) The Public Service Commission for the Union, if requested so to do by the Governor \* \* \* of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.
- (5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

#### **Simplified act**

#### Public Service Commission

- (1) There will be a Public Service Commission for the whole country (Union) and one for each State, as long as this article's rules are followed.
- (2) Two or more States can decide to have a single Public Service Commission for their group. If each State's Legislature (or both Houses if there are two) agrees, Parliament can make a law to create a Joint State Public Service Commission to serve those States.
- (3) Such a law can include any additional rules needed to make the law work properly.

(4) The Union Public Service Commission can help a State with its needs if the State's Governor asks and the President approves.

(5) When this Constitution mentions the Union Public Service Commission or a State Public Service Commission, it means the Commission that is serving the Union or the State for the specific issue being discussed, unless stated otherwise.

### Explanation using Example

#### Example 1:

Scenario: Recruitment for Central Government Jobs

Situation: The Union Public Service Commission (UPSC) is responsible for conducting examinations and interviews for recruitment to various central government services, such as the Indian Administrative Service (IAS), Indian Police Service (IPS), and Indian Foreign Service (IFS).

Application: Ramesh, a graduate, aspires to become an IAS officer. He applies for the Civil Services Examination conducted by the UPSC. The UPSC, as mandated by Article 315, organizes the examination, evaluates the candidates, and recommends the successful candidates for appointment to the central government.

#### Example 2:

Scenario: Joint State Public Service Commission

Situation: States of Punjab and Haryana decide to have a common Public Service Commission to streamline the recruitment process for state government jobs.

Application: The legislative assemblies of both Punjab and Haryana pass resolutions agreeing to form a Joint State Public Service Commission. Parliament enacts a law to establish this Joint Commission. Now, the Joint Commission conducts examinations and interviews for state government positions in both Punjab and Haryana, ensuring a unified and efficient recruitment process.

#### Example 3:

Scenario: State Government Seeking Assistance from UPSC

**Situation:** The State of Maharashtra faces a shortage of qualified candidates for certain specialized positions and seeks assistance from the Union Public Service Commission.

**Application:** The Governor of Maharashtra requests the UPSC to conduct recruitment for these specialized positions. With the approval of the President, the UPSC agrees to serve the needs of Maharashtra. The UPSC then conducts the necessary examinations and interviews, and recommends suitable candidates for the state government positions.

**Example 4:**

**Scenario:** Interpretation of References to Public Service Commissions

**Situation:** A legal dispute arises regarding the interpretation of a reference to the "Public Service Commission" in a state law.

**Application:** The court refers to Article 315(5) of the Constitution, which clarifies that references to the Union Public Service Commission or a State Public Service Commission should be construed as references to the Commission serving the needs of the Union or the State, respectively. This helps the court determine that the reference in the state law pertains to the State Public Service Commission.

### **Article 316: Appointment and term of office of members.**

**Appointment and Tenure of Members of Public Service Commission**

(1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed

under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty-two years, whichever is earlier:

Provided that -

(a) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor \* \* \* of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

### **Simplified act**

#### **Appointment and Tenure of Members of Public Service Commission**

(1) The Chairman and other members of a Public Service Commission are appointed by:

The President for the Union Commission or a Joint Commission.

The Governor of the State for a State Commission.

Additionally, about half of the members should be people who have worked for at least ten years in the Government of India or a State Government. This includes any time they worked before the Constitution started, even if they worked under the British Crown in India or an Indian State Government.



(1A) If the Chairman's position becomes vacant or if the Chairman cannot do his job for any reason, another member of the Commission will take over the duties temporarily. This temporary appointment is made by:

The President for the Union Commission or a Joint Commission.

The Governor of the State for a State Commission.

(2) A member of a Public Service Commission will serve for six years or until they reach a certain age, whichever comes first:

65 years old for the Union Commission.

62 years old for a State Commission or a Joint Commission.

However:

(a) A member can resign by writing a letter to the President (for the Union or Joint Commission) or to the Governor (for a State Commission).

(b) A member can be removed from office as specified in Article 317, clauses (1) or (3).

(3) Once a person has finished their term as a member of a Public Service Commission, they cannot be re-appointed to the same position.

Explanation using Example

Example 1:

Mr. Sharma has been a senior officer in the Government of India for over 15 years. The President of India appoints him as a member of the Union Public Service Commission (UPSC). According to Article 316, Mr. Sharma's extensive experience in government service makes him eligible for this position. He will serve as a member of the UPSC for a term of six years or until he reaches the age of 65, whichever comes first.

Example 2:

Ms. Rao is appointed as the Chairman of the State Public Service Commission (SPSC) by the Governor of her state. After serving for three years, she has to take a medical leave for an extended period. During her absence, the Governor appoints Mr. Verma, another member of the SPSC, to perform the duties of the Chairman until Ms. Rao resumes her duties or a new Chairman is appointed.

Example 3:

Dr. Gupta, a member of the Joint Public Service Commission (JPSC), decides to resign from his position after serving for four years. He writes a resignation letter addressed to the President of India, as required by Article 316. His resignation is accepted, and a new member is appointed to fill his position.

Example 4:

Mr. Singh, a member of the State Public Service Commission, reaches the age of 62 while serving his term. According to Article 316, he must retire from his position as he has reached the age limit for members of a State Commission. He is not eligible for re-appointment to the same office after his term expires.

Example 5:

The Chairman of the Union Public Service Commission (UPSC) unexpectedly passes away. The President of India appoints Ms. Mehta, an experienced member of the UPSC, to perform the duties of the Chairman until a new Chairman is officially appointed. This ensures that the functions of the UPSC continue without interruption.

**Article 317: Removal and suspension of a member of a Public Service Commission.**

Removal of Chairman or Member of Public Service Commission

(1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor \* \* \* in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be:

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehaviour.

### **Simplified act**

#### Removal of Chairman or Member of Public Service Commission

(1) The Chairman or any other member of a Public Service Commission can only be removed from their position by the President if they have behaved badly. This can only happen after the Supreme Court has investigated the matter, following the rules set out in article 145, and has reported to the President that the person should be removed.

(2) While the Supreme Court is investigating, the President (for the Union Commission or a Joint Commission) or the Governor (for a State Commission) can suspend the Chairman or any other member of the Commission until the President makes a final decision based on the Supreme Court's report.

(3) Despite what is said in point (1), the President can remove the Chairman or any other member of a Public Service Commission if:

(a) They are declared bankrupt; or

(b) They take up any paid job outside their official duties; or

(c) The President believes they are not fit to continue in office due to mental or physical health issues.

(4) If the Chairman or any other member of a Public Service Commission is involved in any contract or agreement with the Government of India or a State Government, or benefits from it in any way other than as a regular member of a company, they will be considered to have behaved badly as mentioned in point (1).

#### Explanation using Example

##### Example 1:

Mr. Sharma is the Chairman of the State Public Service Commission in Maharashtra. During his tenure, it is discovered that he has been accepting bribes from candidates appearing for the state civil services examination. The President of India, upon receiving credible information, refers the matter to the Supreme Court for an inquiry. The Supreme Court, after conducting a thorough investigation, finds Mr. Sharma guilty of misbehaviour. Based on the Supreme Court's report, the President issues an order for Mr. Sharma's removal from office.

##### Example 2:

Ms. Gupta is a member of the Union Public Service Commission (UPSC). During her term, she starts a side business and engages in paid consultancy services, which is against the rules of her office. The President, upon learning about this, directly removes Ms. Gupta from her position under clause (3)(b) of Article 317, as she engaged in paid employment outside her official duties.

##### Example 3:

Dr. Rao, a member of the Karnataka State Public Service Commission, is found to be suffering from a severe mental illness that impairs his ability to perform his duties. The President, considering Dr. Rao unfit to continue in office due to infirmity of mind, issues an order for his removal under clause (3)(c) of Article 317.

##### Example 4:

Mr. Verma, a member of the Joint Public Service Commission for the states of Punjab and Haryana, is discovered to have a significant financial interest in a contract awarded by the Government of Haryana. This is considered a conflict of interest and deemed misbehaviour under clause (4) of Article 317. The President refers the matter to the Supreme Court, which confirms the

misbehaviour. Consequently, the President orders Mr. Verma's removal from office.

Example 5:

Mr. Singh, the Chairman of the Union Public Service Commission, is declared insolvent by a court. The President, under clause (3)(a) of Article 317, issues an order for Mr. Singh's removal from office due to his insolvency status.

**Article 318: Power to make regulations as to conditions of service of members and staff of the Commission.**

In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor of the State may by regulations:

(a) determine the number of members of the Commission and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

**Simplified act**

If there is a Union Commission or a Joint Commission, the President, and if there is a State Commission, the Governor of the State can:

(a) decide how many members will be in the Commission and what their job conditions will be; and

(b) decide how many staff members will work for the Commission and what their job conditions will be:

However, once a member of a Public Service Commission is appointed, their job conditions cannot be changed to make them worse.

Explanation using Example

Example 1:

Scenario: Appointment of Members to the Union Public Service Commission (UPSC)

Context: The President of India is responsible for determining the number of members and their conditions of service for the UPSC.

Example: The President of India decides that the UPSC will have 10 members. The President also sets regulations that these members will serve a term of 6 years or until they reach the age of 65, whichever is earlier. Additionally, the President specifies that members will receive a monthly salary of ₹2,25,000 and other benefits such as medical insurance and travel allowances.

Application: This regulation ensures that the UPSC has a defined structure and clear terms of service for its members, which helps in maintaining the efficiency and integrity of the Commission.

Example 2:

Scenario: Changes in Service Conditions for State Public Service Commission Members

Context: The Governor of a State is responsible for determining the number of members and their conditions of service for the State Public Service Commission (SPSC).

Example: The Governor of Maharashtra decides to increase the number of members in the Maharashtra Public Service Commission (MPSC) from 5 to 7 due to an increase in workload. The Governor also updates the service conditions to include a new provision for a housing allowance of ₹50,000 per month for each member. However, the Governor ensures that these changes do not negatively affect the current members' conditions of service.

Application: This regulation allows the Governor to adapt the structure and benefits of the SPSC to meet changing needs while protecting the rights of existing members.

Example 3:

Scenario: Staff Appointments in a Joint Public Service Commission

Context: The President of India is responsible for making provisions regarding the number of staff members and their conditions of service for a Joint Public Service Commission serving multiple states.

Example: The President decides that the Joint Public Service Commission serving the states of Punjab, Haryana, and Himachal Pradesh will have 50 staff members. The President sets regulations that these staff members will have a

probation period of 2 years, during which they will receive a stipend of ₹30,000 per month. After successful completion of the probation period, their salary will be increased to ₹50,000 per month, along with other benefits such as provident fund and health insurance.

Application: This regulation ensures that the Joint Public Service Commission has adequate staff with clearly defined service conditions, which helps in the smooth functioning of the Commission across multiple states.

**Article 319: Prohibition as to the holding of offices by members of Commission on ceasing to be such members.**

On ceasing to hold office

(a) The Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) The Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(c) A member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(d) A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

**Simplified act**

When They Stop Holding Office

(a) The Chairman of the Union Public Service Commission cannot get another job with the Indian government or any state government.

(b) The Chairman of a State Public Service Commission can become the Chairman or a member of the Union Public Service Commission or the Chairman of another State Public Service Commission, but cannot get any other job with the Indian government or any state government.

(c) A member (but not the Chairman) of the Union Public Service Commission can become the Chairman of the Union Public Service Commission or the Chairman of a State Public Service Commission, but cannot get any other job with the Indian government or any state government.

(d) A member (but not the Chairman) of a State Public Service Commission can become the Chairman or a member of the Union Public Service Commission or the Chairman of that or another State Public Service Commission, but cannot get any other job with the Indian government or any state government.

#### Explanation using Example

##### Example 1:

Mr. Sharma is the Chairman of the Union Public Service Commission (UPSC). After completing his term, he wishes to take up a new job as an advisor in the Ministry of Home Affairs. However, according to Article 319(a) of the Constitution of India, Mr. Sharma is ineligible for any further employment under the Government of India or any State Government. Therefore, he cannot accept the advisor position in the Ministry of Home Affairs.

##### Example 2:

Ms. Rao is the Chairman of the Maharashtra Public Service Commission (MPSC). After her term ends, she is offered the position of Chairman of the Union Public Service Commission (UPSC). According to Article 319(b), she is eligible for this position. However, if she were offered a position as a Secretary in the Ministry of Education, she would have to decline, as she is not eligible for any other employment under the Government of India or the Government of a State.

##### Example 3:

Mr. Verma is a member of the Union Public Service Commission (UPSC), but not the Chairman. After his term ends, he is offered the position of Chairman of the Uttar Pradesh Public Service Commission (UPPSC). According to Article 319(c), he is eligible for this position. However, if he were offered a position as a Director in the Ministry of Health, he would have to decline, as he is not eligible



for any other employment under the Government of India or the Government of a State.

Example 4:

Ms. Singh is a member of the Karnataka Public Service Commission (KPSC), but not the Chairman. After her term ends, she is offered the position of Chairman of the Union Public Service Commission (UPSC). According to Article 319(d), she is eligible for this position. Alternatively, she could also be appointed as the Chairman of the Tamil Nadu Public Service Commission (TNPSC). However, she cannot take up any other employment under the Government of India or the Government of a State, such as a position in the Ministry of Finance.

### **Article 320: Functions of Public Service Commissions.**

(1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted -

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any

costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor \* \* \* of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor \* \* \*, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso to clause (3) by the President or the Governor \* \* \* of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid.

### **Simplified act**

(1) The Union and State Public Service Commissions are responsible for holding exams to hire people for jobs in the Union and State services.

(2) If two or more States ask for help, the Union Public Service Commission must help them create and run joint recruitment programs for jobs that need special qualifications.

(3) The Union or State Public Service Commission must be asked for advice on:

(a) how to recruit people for civil services and jobs;

(b) the rules for hiring, promoting, and transferring people in civil services and jobs, and if candidates are suitable for these roles;

(c) any disciplinary issues involving someone working for the Government of India or a State in a civil job, including any appeals or petitions about these issues;

(d) any claims by someone working or who has worked for the Government of India, a State, or under the Crown in India, asking for legal costs to be paid from the government's funds if they were sued for actions done as part of their job;

(e) any claims for a pension due to injuries while working for the Government of India, a State, or under the Crown in India, and questions about the amount of such a pension.

The Public Service Commission must give advice on any matter referred to them by the President or the Governor of the State.

The President or the Governor can make rules about when it is not necessary to consult the Public Service Commission.

(4) The Public Service Commission does not need to be consulted on how to implement certain provisions mentioned in Article 16(4) or Article 335.

(5) Any rules made by the President or the Governor under clause (3) must be presented to Parliament or the State Legislature for at least fourteen days. These rules can be changed or repealed by Parliament or the State Legislature during the session when they are presented.

Explanation using Example

Example 1:

Scenario: Recruitment for Civil Services in a State

Situation: The State of Maharashtra needs to recruit new officers for its civil services. The Maharashtra Public Service Commission (MPSC) is responsible for conducting the examinations and selecting the candidates.

Application of Article 320:

**Conducting Examinations:** MPSC conducts a state-level examination to fill various civil service positions.

**Consultation on Recruitment Methods:** The State Government consults MPSC on the best methods to recruit candidates, ensuring the process is fair and transparent.

**Appointments and Promotions:** MPSC advises the State Government on the principles to be followed for appointments, promotions, and transfers within the civil services.

**Disciplinary Matters:** If a civil servant faces disciplinary action, MPSC is consulted to ensure the process is just and follows legal protocols.

**Legal Defense Costs:** A civil servant in Maharashtra is sued for actions taken during their official duties. MPSC advises whether the legal defense costs should be covered by the State's Consolidated Fund.

**Pension Claims:** A civil servant is injured while on duty. MPSC is consulted to determine the appropriate pension or compensation for the injury.

Example 2:

**Scenario: Joint Recruitment for Specialized Positions**

**Situation:** The States of Karnataka and Tamil Nadu need to recruit engineers with specialized qualifications for a joint infrastructure project.

**Application of Article 320:**

**Joint Recruitment Scheme:** Karnataka and Tamil Nadu request the Union Public Service Commission (UPSC) to assist in creating and operating a joint recruitment scheme for engineers.

**Special Qualifications:** UPSC helps frame the recruitment process, ensuring that candidates with the required specialized qualifications are selected.

**Consultation on Recruitment Methods:** Both State Governments consult UPSC on the best methods to recruit these specialized engineers.

**Appointments and Transfers:** UPSC advises on the principles for appointing these engineers and any necessary transfers between the two states.

**Disciplinary Matters:** If any recruited engineer faces disciplinary issues, UPSC is consulted to ensure fair handling of the situation.

**Legal Defense Costs:** An engineer is sued for actions taken during the project. UPSC advises whether the legal defense costs should be covered by the respective State's Consolidated Fund.

**Pension Claims:** An engineer is injured while working on the project. UPSC is consulted to determine the appropriate pension or compensation for the injury.

#### Example 3:

**Scenario:** Disciplinary Action Against a Civil Servant

**Situation:** A civil servant in the Government of India is accused of misconduct and faces disciplinary action.

**Application of Article 320:**

**Consultation on Disciplinary Matters:** The Government of India consults the Union Public Service Commission (UPSC) on the appropriate disciplinary measures to be taken.

**Memorials or Petitions:** The civil servant submits a petition challenging the disciplinary action. UPSC reviews the petition and advises the government on the merits of the case.

**Legal Defense Costs:** The civil servant incurs legal expenses while defending against the disciplinary action. UPSC advises whether these costs should be paid from the Consolidated Fund of India.

**Pension Claims:** If the disciplinary action results in injury or affects the civil servant's pension, UPSC is consulted to determine the appropriate compensation or pension adjustments.

#### Example 4:

**Scenario:** Regulation of Recruitment Methods

**Situation:** The President of India decides to make regulations specifying certain recruitment methods for all-India services.

**Application of Article 320:**

**Making Regulations:** The President issues regulations detailing specific recruitment methods for all-India services, such as the Indian Administrative Service (IAS) and Indian Police Service (IPS).

**Laying Before Parliament:** These regulations are laid before both Houses of Parliament for at least fourteen days.

**Parliamentary Review:** During the session, Parliament reviews the regulations and may suggest modifications, amendments, or repeal them if necessary.

**Implementation:** Once reviewed and approved by Parliament, the regulations are implemented, guiding the recruitment process for all-India services.

Example 5:

Scenario: Pension Claim for Injury

Situation: A civil servant in the State of Rajasthan is injured while performing official duties and claims a pension for the injury.

Application of Article 320:

**Consultation on Pension Claims:** The Government of Rajasthan consults the Rajasthan Public Service Commission (RPSC) to determine the validity of the pension claim.

**Assessment of Injury:** RPSC assesses the extent of the injury and advises on the appropriate pension or compensation to be awarded.

**Implementation:** Based on RPSC's advice, the State Government grants the pension or compensation to the injured civil servant.

**Review of Award Amount:** If there is any dispute regarding the amount of the award, RPSC is consulted again to ensure a fair resolution.

These examples illustrate how Article 320 of the Constitution of India is applied in various real-life scenarios, ensuring fair and transparent processes in public service recruitment, appointments, promotions, disciplinary actions, and pension claims.

### **Article 321: Power to extend functions of Public Service Commissions.**

An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

### **Simplified act**

A law created by Parliament or a State Legislature can give extra duties to the Union Public Service Commission or the State Public Service Commission. These extra duties can be related to the services of the Union (central government) or the State government. They can also be related to the services of any local government body, other legally established organizations, or any public institution.

Explanation using Example

Example 1:

The Government of Maharashtra decides to improve the recruitment process for municipal corporations within the state. To ensure a fair and transparent selection process, the state legislature passes a law that extends the functions of the Maharashtra Public Service Commission (MPSC) to include the recruitment of officers for all municipal corporations in the state. This means that the MPSC, which typically handles state-level civil services exams, will now also conduct exams and interviews for positions in local municipal bodies.

Example 2:

The Central Government of India identifies a need to standardize the recruitment process for various autonomous educational institutions across the country, such as the Indian Institutes of Technology (IITs) and Indian Institutes of Management (IIMs). To achieve this, Parliament enacts a law that extends the functions of the Union Public Service Commission (UPSC) to include the recruitment of faculty and administrative staff for these institutions. As a result, the UPSC will now be responsible for conducting exams and interviews for these positions, ensuring a uniform and merit-based selection process.

### **Article 322: Expenses of Public Service Commissions.**

The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

### **Simplified act**

The costs of running the Union or a State Public Service Commission, including any salaries, allowances, and pensions for the members or staff of

the Commission, will be paid from the main government fund of India or, if it's a state commission, from the main government fund of that state.

#### Explanation using Example

##### Example 1:

The Union Public Service Commission (UPSC) is responsible for conducting examinations for recruitment to various civil services of the Government of India. The salaries of the UPSC members, the allowances for their travel, and the pensions for retired members are all paid from the Consolidated Fund of India. This means that these expenses are automatically approved and do not require a separate vote in the Parliament.

##### Example 2:

The Maharashtra Public Service Commission (MPSC) conducts exams for recruitment to various posts in the state government. The expenses for conducting these exams, including the salaries of the MPSC members, the allowances for their office staff, and the pensions for retired members, are paid from the Consolidated Fund of the State of Maharashtra. This ensures that the financial operations of the MPSC are secure and do not depend on annual budget approvals from the state legislature.

#### **Article 323: Reports of Public Service Commissions.**

(1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor \* \* \* of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor \* \* \* of each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor \* \* \*, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.



## **Simplified act**

(1) Every year, the Union Commission must give a report to the President about the work they have done. When the President gets this report, they must also provide a note explaining any cases where the Commission's advice was not followed and why. This report and the note must then be presented to both Houses of Parliament.

(2) Every year, a State Commission must give a report to the Governor of the State about the work they have done. If there is a Joint Commission serving multiple States, they must give a report to the Governor of each State they serve. When the Governor gets this report, they must also provide a note explaining any cases where the Commission's advice was not followed and why. This report and the note must then be presented to the State Legislature.

### Explanation using Example

#### Example 1:

The Union Public Service Commission (UPSC) has completed its annual activities, including conducting various competitive exams for civil services, defense services, and other government positions. At the end of the year, the UPSC prepares a detailed report outlining all the work done, the number of exams conducted, the number of candidates who appeared, and the recommendations made for appointments and promotions.

This report is then submitted to the President of India. Upon receiving the report, the President reviews it and prepares a memorandum explaining any instances where the advice of the UPSC was not accepted by the government. For example, if the UPSC recommended the promotion of a certain officer but the government decided against it, the reasons for this decision would be documented.

The President then ensures that both the report and the memorandum are presented before both houses of Parliament. This process ensures transparency and accountability in the functioning of the UPSC.

#### Example 2:

The Maharashtra Public Service Commission (MPSC) has completed its annual activities, including recruitment for various state government positions. At the end of the year, the MPSC prepares a comprehensive report detailing its work,

including the number of exams conducted, the number of candidates who appeared, and the recommendations made for appointments and promotions.

This report is then submitted to the Governor of Maharashtra. Upon receiving the report, the Governor reviews it and prepares a memorandum explaining any instances where the advice of the MPSC was not accepted by the state government. For example, if the MPSC recommended the appointment of a certain candidate but the state government decided against it, the reasons for this decision would be documented.

The Governor then ensures that both the report and the memorandum are presented before the Maharashtra State Legislature. This process ensures transparency and accountability in the functioning of the MPSC.

#### Example 3:

The Joint Public Service Commission serving the states of Punjab and Haryana has completed its annual activities, including recruitment for various state government positions in both states. At the end of the year, the Joint Commission prepares a comprehensive report detailing its work, including the number of exams conducted, the number of candidates who appeared, and the recommendations made for appointments and promotions in both states.

This report is then submitted to the Governors of both Punjab and Haryana. Upon receiving the report, the Governors review it and prepare a memorandum explaining any instances where the advice of the Joint Commission was not accepted by the respective state governments. For example, if the Joint Commission recommended the appointment of a certain candidate in Punjab but the state government decided against it, the reasons for this decision would be documented.

The Governors then ensure that both the report and the memorandum are presented before the respective State Legislatures of Punjab and Haryana. This process ensures transparency and accountability in the functioning of the Joint Commission.

## **PART XIVA: TRIBUNALS**

### **Article 323A: Administrative tribunals.**

#### Article on Administrative Tribunals

(1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

(2) A law made under clause (1) may -

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) repeal or amend any order made by the President under clause (3) of article 371D;

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

### **Simplified act**

#### Article on Administrative Tribunals

(1) Parliament can make laws to set up administrative tribunals. These tribunals will handle disputes and complaints about hiring and job conditions for people working in public services and posts related to the Union, any State, local authorities, or any organization controlled by the Government of India.

(2) A law made under the above point can:

(a) create an administrative tribunal for the Union and separate tribunals for each State or for multiple States together;

(b) define what each tribunal can do, including their power to punish for contempt;

(c) set the procedures these tribunals must follow, including time limits and rules about evidence;

(d) prevent all other courts, except the Supreme Court under article 136, from handling the disputes or complaints mentioned in point (1);

(e) transfer any ongoing cases from other courts or authorities to these tribunals if those cases would have been under the tribunal's authority if they had started after the tribunal was set up;

(f) change or cancel any order made by the President under clause (3) of article 371D;

(g) include any additional rules or provisions (like fees) that Parliament thinks are necessary for the tribunals to work effectively and quickly resolve cases and enforce their orders.

(3) This article will apply even if it conflicts with any other part of the Constitution or any other law currently in force.

Explanation using Example

Example 1:

Scenario: Rajesh, a government employee working for a state-owned corporation, feels that he was unfairly denied a promotion despite meeting all the eligibility criteria. He believes that the decision was influenced by favoritism and not based on merit.

Application of Article 323A: Rajesh can file a complaint with the State Administrative Tribunal established under Article 323A. The tribunal will have the jurisdiction to adjudicate his dispute regarding the conditions of his

service, including promotions. The tribunal will follow the procedure laid down by the law, and its decision will be binding. If Rajesh is not satisfied with the tribunal's decision, he can appeal to the Supreme Court under Article 136.

#### Example 2:

Scenario: Priya, an officer in a central government department, is transferred to a remote location without any valid reason. She believes the transfer is punitive and not in accordance with the service rules.

Application of Article 323A: Priya can approach the Central Administrative Tribunal (CAT) to challenge her transfer order. The CAT, established under Article 323A, has the authority to hear disputes related to the conditions of service of central government employees. The tribunal will examine the validity of the transfer order and can provide relief if it finds the transfer to be unjustified. The decision of the CAT can be appealed to the Supreme Court under Article 136 if necessary.

#### Example 3:

Scenario: A group of municipal employees in a local authority feels that their working conditions and pay scales are not in line with the regulations and are discriminatory compared to other similar authorities.

Application of Article 323A: The group can file a collective complaint with the appropriate State Administrative Tribunal. The tribunal will have the jurisdiction to address their grievances regarding the conditions of service. The tribunal will investigate the claims, and if it finds merit in the complaint, it can order the local authority to rectify the discrepancies. The tribunal's decision can be appealed to the Supreme Court under Article 136 if the employees or the local authority are not satisfied with the outcome.

#### Example 4:

Scenario: An employee of a government-controlled corporation is facing disciplinary action for alleged misconduct. He believes the charges are baseless and the disciplinary process is not being conducted fairly.

Application of Article 323A: The employee can approach the relevant Administrative Tribunal to challenge the disciplinary proceedings. The tribunal, established under Article 323A, has the power to adjudicate disputes related to the conditions of service, including disciplinary actions. The tribunal will review the fairness of the process and the validity of the charges. If the tribunal

finds the proceedings to be unjust, it can provide appropriate relief to the employee. The decision of the tribunal can be appealed to the Supreme Court under Article 136 if necessary.

**Article 323B: Tribunals for other matters.**

(1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely:

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;

(g) production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;

(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;

(i) offences against laws with respect to any of the matters specified in sub-clauses (a) to (h) and fees in respect of any of those matters;

(j) any matter incidental to any of the matters specified in sub-clauses (a) to (i).

(3) A law made under clause (1) may:

(a) provide for the establishment of a hierarchy of tribunals;

- (b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;
  - (c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;
  - (d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;
  - (e) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;
  - (f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.
- (4) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Explanation: In this article, "appropriate Legislature", in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.

### **Simplified act**

- (1) The appropriate Legislature (which could be the Parliament or a State Legislature) can create laws to set up tribunals to handle disputes, complaints, or offences related to certain matters that they have the power to make laws about.
- (2) The matters that these tribunals can deal with include:
- (a) Taxes: How they are charged, assessed, collected, and enforced.
  - (b) Foreign exchange and trade: Import and export across customs borders.
  - (c) Industrial and labor disputes.

(d) Land reforms: This includes the state's acquisition of land, changes to land rights, and limits on agricultural land.

(e) Limits on urban property ownership.

(f) Elections: This includes elections to Parliament or State Legislatures, but not the matters covered in articles 329 and 329A.

(g) Essential goods: Production, supply, and distribution of food and other essential goods, and control of their prices.

(h) Rent and tenancy: Regulation and control of rent, and issues between landlords and tenants.

(i) Offences related to any of the above matters and fees related to them.

(j) Any other related matters.

(3) A law made under clause (1) can:

(a) Set up a system of different levels of tribunals.

(b) Define what each tribunal can do, including their power to punish for contempt.

(c) Set the procedures these tribunals must follow, including time limits and rules of evidence.

(d) Exclude the jurisdiction of all other courts, except the Supreme Court under article 136, for matters handled by these tribunals.

(e) Transfer existing cases from other courts to these tribunals if those cases would fall under the tribunal's jurisdiction after it is established.

(f) Include additional provisions necessary for the tribunals to function effectively, resolve cases quickly, and enforce their orders.

(4) The rules in this article will apply even if they conflict with other parts of the Constitution or any other law currently in force.

Explanation: In this article, "appropriate Legislature" means either the Parliament or a State Legislature that has the authority to make laws on the matter in question, according to Part XI of the Constitution.

Explanation using Example



### Example 1:

#### Scenario: Dispute over Income Tax Assessment

Situation: Mr. Sharma, a businessman, receives an income tax assessment order from the Income Tax Department, claiming he owes additional taxes for the financial year 2021-2022. Mr. Sharma believes the assessment is incorrect and decides to challenge it.

#### Application of Article 323B:

Mr. Sharma can approach the Income Tax Appellate Tribunal (ITAT), a specialized tribunal established under the powers granted by Article 323B.

The ITAT will adjudicate the dispute, reviewing the evidence and arguments presented by both Mr. Sharma and the Income Tax Department.

The tribunal's decision can be appealed to the High Court and, subsequently, to the Supreme Court under Article 136, but the jurisdiction of other courts is excluded.

### Example 2:

#### Scenario: Industrial Dispute between Workers and Management

Situation: Workers at a manufacturing plant in Maharashtra go on strike, demanding better wages and working conditions. The management refuses to negotiate, leading to a prolonged industrial dispute.

#### Application of Article 323B:

The workers' union can file a case with the Industrial Tribunal, a tribunal established under the powers granted by Article 323B to handle industrial and labor disputes.

The Industrial Tribunal will hear the case, considering the demands of the workers and the response from the management.

The tribunal can issue orders regarding wage increases, working conditions, and other related matters. The decision of the tribunal can be challenged in the High Court and, ultimately, in the Supreme Court under Article 136, but other courts' jurisdiction is excluded.

### Example 3:

### Scenario: Dispute over Rent Control

Situation: Mrs. Gupta, a tenant in a rented apartment in Delhi, receives a notice from her landlord demanding a significant increase in rent. Mrs. Gupta believes the increase is unreasonable and violates the rent control laws.

#### Application of Article 323B:

Mrs. Gupta can approach the Rent Control Tribunal, a tribunal established under the powers granted by Article 323B to handle rent regulation and tenancy issues.

The Rent Control Tribunal will adjudicate the dispute, examining the rent control laws and the arguments from both Mrs. Gupta and her landlord.

The tribunal's decision can be appealed to the High Court and, subsequently, to the Supreme Court under Article 136, but the jurisdiction of other courts is excluded.

#### Example 4:

### Scenario: Dispute over Land Acquisition

Situation: The State Government of Karnataka acquires agricultural land owned by Mr. Reddy for a public infrastructure project. Mr. Reddy believes the compensation offered is inadequate and challenges the acquisition.

#### Application of Article 323B:

Mr. Reddy can file a case with the Land Acquisition Tribunal, a tribunal established under the powers granted by Article 323B to handle land reform and acquisition disputes.

The Land Acquisition Tribunal will hear the case, considering the compensation offered and the arguments from both Mr. Reddy and the State Government.

The tribunal can order a revised compensation amount if it finds the original offer inadequate. The decision can be appealed to the High Court and, ultimately, to the Supreme Court under Article 136, but other courts' jurisdiction is excluded.

## **PART XV: ELECTIONS**

### **Article 324: Superintendence, direction and control of elections to be vested in an Election Commission.**

#### Election Commission

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution \* \* \* shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor \* \* \* of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

### **Simplified act**

#### Election Commission

(1) The Election Commission is in charge of overseeing, directing, and controlling the preparation of voter lists and the conduct of all elections for Parliament, State Legislatures, and the offices of President and Vice-President.

(2) The Election Commission is made up of the Chief Election Commissioner and other Election Commissioners, if needed. The President decides how many Election Commissioners there will be and appoints them, following any laws made by Parliament.

(3) If there are other Election Commissioners, the Chief Election Commissioner will be the Chairman of the Election Commission.

(4) Before each general election for the House of the People (Lok Sabha) and State Legislative Assemblies, and before the first general election and then every two years for State Legislative Councils (if the state has one), the President can appoint Regional Commissioners after consulting with the Election Commission. These Regional Commissioners help the Election Commission with its duties.

(5) The conditions of service and the length of time Election Commissioners and Regional Commissioners serve are determined by the President, following any laws made by Parliament:

The Chief Election Commissioner can only be removed from office in the same way and for the same reasons as a Judge of the Supreme Court. Once appointed, their service conditions cannot be changed to their disadvantage.

Other Election Commissioners or Regional Commissioners can only be removed from office based on the recommendation of the Chief Election Commissioner.

(6) When the Election Commission requests, the President or the Governor of a State must provide the necessary staff to help the Election Commission or a Regional Commissioner carry out their duties.

#### Explanation using Example

### Example 1:

Scenario: General Elections to the Lok Sabha (House of the People)

Explanation: The Election Commission of India (ECI) is responsible for overseeing the entire process of conducting general elections to the Lok Sabha. This includes preparing and updating the electoral rolls, ensuring free and fair voting, and counting the votes.

Example: In 2019, before the general elections, the ECI undertook a massive exercise to update the electoral rolls. They ensured that all eligible voters were registered and that any discrepancies were corrected. On the day of the election, the ECI deployed thousands of polling officers and security personnel to ensure that the voting process was smooth and free from any malpractices. After the voting, the ECI supervised the counting of votes and declared the results.

### Example 2:

Scenario: Appointment of the Chief Election Commissioner (CEC)

Explanation: The President of India appoints the Chief Election Commissioner (CEC) and other Election Commissioners. The CEC has a secure tenure and can only be removed in a manner similar to that of a Supreme Court judge, ensuring independence and impartiality.

Example: In 2020, the President of India appointed Mr. Sunil Arora as the Chief Election Commissioner. His appointment was made to ensure that the ECI remains an independent body capable of conducting free and fair elections. During his tenure, Mr. Arora oversaw several state assembly elections and ensured that they were conducted without any bias or influence from political parties.

### Example 3:

Scenario: State Legislative Assembly Elections

Explanation: The ECI is also responsible for conducting elections to the Legislative Assemblies of each state. This includes preparing the electoral rolls, setting up polling stations, and ensuring that the elections are conducted fairly.

Example: In 2021, the ECI conducted the Legislative Assembly elections in West Bengal. The ECI deployed a large number of polling officers and security

personnel to ensure that the elections were conducted peacefully. They also set up numerous polling stations across the state to facilitate easy access for voters. After the elections, the ECI supervised the counting of votes and declared the results.

Example 4:

Scenario: Removal of an Election Commissioner

Explanation: An Election Commissioner or a Regional Commissioner can only be removed from office on the recommendation of the Chief Election Commissioner, ensuring that the removal process is not arbitrary.

Example: In a hypothetical scenario, if an Election Commissioner is found to be involved in corrupt practices, the Chief Election Commissioner can recommend their removal. The President, acting on this recommendation, can then remove the Election Commissioner from office, ensuring that the integrity of the ECI is maintained.

Example 5:

Scenario: Request for Additional Staff

Explanation: The President or the Governor of a state must provide additional staff to the ECI when requested, to ensure the smooth conduct of elections.

Example: During the 2019 general elections, the ECI requested additional staff from the state governments to manage the large number of polling stations. The Governors of various states, upon the request of the ECI, provided the necessary staff to ensure that the elections were conducted efficiently and without any logistical issues.

**Article 325: No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.**

There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

**Simplified act**

There will be one main list of voters for each area for elections to either House of Parliament or to the House or either House of the Legislature of a State.

No one can be left out of this voter list or ask to be on a special voter list for that area just because of their religion, race, caste, sex, or any of these reasons.

Explanation using Example

Example 1:

Ravi, a 30-year-old man from a small village in Uttar Pradesh, belongs to a minority religious community. He recently moved to a new constituency for work and wants to register to vote in the upcoming state elections. Despite some local resistance due to his religion, Ravi is legally entitled to be included in the general electoral roll of his new constituency. Article 325 ensures that his religion cannot be a reason for his exclusion from the electoral roll.

Example 2:

Priya, a young woman from a Scheduled Caste community in Tamil Nadu, has just turned 18 and is excited to vote for the first time. She goes to the local electoral office to get her name included in the electoral roll. Some people in her community try to discourage her, saying that women from their caste have never voted before. However, under Article 325, Priya has the right to be included in the electoral roll regardless of her caste or sex. The electoral office must include her name without any discrimination.

**Article 326: Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.**

The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

**Simplified act**

Elections for the House of the People and the Legislative Assembly of each State will be based on adult voting rights.

This means that every person who: a. Is a citizen of India, b. Is at least eighteen years old on a date set by law, c. And is not disqualified for reasons like not living in the area, mental illness, committing a crime, or engaging in corrupt or illegal practices,

Has the right to be registered as a voter in these elections.

Explanation using Example

Example 1:

Ravi, a 19-year-old citizen of India, resides in Mumbai, Maharashtra. He has recently turned 18 and is excited to participate in the democratic process. According to Article 326 of the Constitution of India, Ravi is eligible to vote in the upcoming elections for the House of the People (Lok Sabha) and the Legislative Assembly of Maharashtra. He visits the local election office, provides the necessary documents to prove his age and citizenship, and gets himself registered as a voter. On the day of the election, Ravi casts his vote, contributing to the selection of his representatives.

Example 2:

Meena, a 25-year-old citizen of India, lives in Chennai, Tamil Nadu. She has been diagnosed with a severe mental disorder and has been declared of unsound mind by a competent court. Despite being over 18 years of age, Meena is disqualified from voting under Article 326 of the Constitution of India due to her mental condition. Her name is not included in the voter list, and she is not allowed to participate in the elections for the House of the People (Lok Sabha) or the Legislative Assembly of Tamil Nadu.

Example 3:

Arjun, a 30-year-old citizen of India, resides in Delhi. He was convicted of a serious crime and is currently serving a prison sentence. According to Article 326 of the Constitution of India, Arjun is disqualified from voting due to his criminal conviction. Despite being over 18 years of age, he cannot register as a voter or participate in the elections for the House of the People (Lok Sabha) or the Legislative Assembly of Delhi until his disqualification is lifted.

Example 4:



Priya, a 22-year-old citizen of India, lives in Bangalore, Karnataka. She recently moved to Bangalore for her job and has been living there for the past six months. Priya wants to vote in the upcoming Legislative Assembly elections in Karnataka. According to Article 326 of the Constitution of India, she is eligible to register as a voter in Bangalore since she is over 18 years of age and has been a resident of the area for a sufficient period. Priya submits her address proof and other required documents to the local election office and successfully registers as a voter. She then participates in the election by casting her vote.

Example 5:

Vikram, a 40-year-old citizen of India, lives in Jaipur, Rajasthan. He was found guilty of engaging in corrupt practices during a previous election and was disqualified from voting for a period of six years. Despite being over 18 years of age, Vikram is currently disqualified from voting under Article 326 of the Constitution of India due to his involvement in corrupt practices. His name is removed from the voter list, and he cannot participate in the elections for the House of the People (Lok Sabha) or the Legislative Assembly of Rajasthan until his disqualification period ends.

**Article 327: Power of Parliament to make provision with respect to elections to Legislatures.**

Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

**Simplified act**

According to the rules in this Constitution, Parliament can make laws about elections for either House of Parliament or for the State Legislature.

These laws can cover things like: a. Making lists of voters (electoral rolls), b. Deciding the boundaries of voting areas (delimitation of constituencies), c. And any other important details needed to properly set up these Houses.

Explanation using Example

Example 1:

The Parliament of India decides to introduce a new law to ensure that all electoral rolls are updated every six months. This law mandates that the Election Commission of India must conduct a door-to-door verification process to ensure that all eligible voters are included and any deceased or ineligible voters are removed from the rolls. This action is taken under the power granted by Article 327, which allows Parliament to make provisions regarding the preparation of electoral rolls.

Example 2:

The Parliament enacts a law to change the boundaries of several parliamentary constituencies in a state to ensure fair representation based on the latest population data. This process, known as delimitation, is carried out to ensure that each constituency has approximately the same number of voters. This law is made under the authority of Article 327, which permits Parliament to make provisions regarding the delimitation of constituencies.

**Article 328: Power of Legislature of a State to make provision with respect to elections to such Legislature.**

Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

**Simplified act**

As long as it follows the rules of the Constitution and if Parliament hasn't already made rules about it, the State Legislature can make laws about elections for its own House or Houses.

This includes making rules about creating voter lists and anything else needed to properly set up these Houses.

Explanation using Example

Example 1:

The state of Maharashtra decides to implement a new law to ensure that all electoral rolls are updated every six months. This law includes provisions for door-to-door verification of voters' details and the use of digital technology to

maintain accurate records. Since Parliament has not made any specific provision regarding the frequency of updating electoral rolls, Maharashtra's Legislature exercises its power under Article 328 to enact this law. This helps in maintaining an up-to-date and accurate list of eligible voters for state elections.

Example 2:

In the state of Tamil Nadu, the Legislature passes a law that mandates the use of electronic voting machines (EVMs) with Voter Verified Paper Audit Trail (VVPAT) for all state legislative elections. This law also includes detailed procedures for the storage, maintenance, and security of these machines. Since there is no conflicting provision made by Parliament regarding the use of EVMs with VVPAT in state elections, Tamil Nadu's Legislature uses its authority under Article 328 to ensure the integrity and transparency of the electoral process in the state.

### **Article 329: Bar to interference by courts in electoral matters.**

Notwithstanding anything in this Constitution

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

### **Simplified act**

No matter what is written in this Constitution:

(a) You cannot challenge the validity of any law about how voting areas are divided or how seats are assigned to those areas, if those laws are made under article 327 or article 328, in any court.

(b) You cannot challenge the results of any election to either House of Parliament or to the State Legislature, except by filing an election petition to the designated authority in the way specified by the relevant law.

Explanation using Example

#### Example 1:

Scenario: A political party in the state of Maharashtra is unhappy with the way the constituencies have been delimited (i.e., the boundaries have been redrawn) and the number of seats allocated to each constituency. They believe that the delimitation process was unfair and biased.

Application of Article 329: Under Article 329(a), the political party cannot challenge the validity of the delimitation of constituencies or the allotment of seats in any court. This means that even if they believe the process was unfair, they cannot take the matter to court for resolution. The delimitation and seat allocation decisions made under Articles 327 and 328 are final and cannot be questioned in a judicial setting.

#### Example 2:

Scenario: During the general elections in India, a candidate from Uttar Pradesh loses the election and believes that there were irregularities in the voting process, such as voter fraud or tampering with electronic voting machines (EVMs). The candidate wants to challenge the election results in court.

Application of Article 329: According to Article 329(b), the candidate cannot directly approach any court to challenge the election results. Instead, they must file an election petition to the designated authority, as specified by the law made by the appropriate Legislature. This means that the candidate must follow the legal procedure for election disputes, which typically involves presenting the petition to an Election Tribunal or a similar body, rather than directly going to a regular court.

#### Example 3:

Scenario: A citizen of Tamil Nadu believes that the recent state legislative assembly elections were conducted unfairly and wants to file a lawsuit in the High Court to challenge the entire election process.

Application of Article 329: Under Article 329(b), the citizen cannot challenge the election process in the High Court or any other court. The only way to question the election is through an election petition presented to the appropriate authority as defined by the relevant election laws. This ensures that election disputes are handled through a specialized process rather than through general judicial intervention.

#### Example 4:

Scenario: A group of voters in Karnataka feels that the recent changes in the delimitation of constituencies have diluted their voting power and want to file a Public Interest Litigation (PIL) in the Supreme Court to address their concerns.

Application of Article 329: Article 329(a) bars any court from questioning the validity of laws related to the delimitation of constituencies or the allotment of seats. Therefore, the Supreme Court would not entertain the PIL regarding the delimitation changes. The voters would have to seek redress through other non-judicial means, such as lobbying their representatives or participating in the public consultation process during delimitation exercises.

**Article 329A: Special provision as to elections to Parliament in the case of Prime Minister and Speaker: Omitted.**

Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 36 (with effect from 20-6-1979).

**Simplified act**

Removed by the Constitution (Forty-fourth Amendment) Act, 1978, section 36 (starting from 20-6-1979).

Explanation using Example

Example 1:

Scenario: Imagine that in 1977, the Prime Minister of India was accused of election malpractice. Under Article 329A, a special provision was in place to handle such cases differently from other election disputes. This provision allowed for a unique process to address allegations against the Prime Minister and the Speaker of the Lok Sabha.

Application: Before the Forty-fourth Amendment, if someone wanted to challenge the election of the Prime Minister, they would have to follow the special procedures outlined in Article 329A. This might include different courts or tribunals and specific rules for evidence and hearings.

Outcome: After the Forty-fourth Amendment in 1978, Article 329A was omitted, meaning that the special provisions were removed. From June 20, 1979, onwards, any election disputes involving the Prime Minister or the Speaker would be handled like any other election dispute, without any special treatment.

Example 2:

Scenario: In 1975, the Speaker of the Lok Sabha was accused of using undue influence to win an election. Under the then-existing Article 329A, there were special provisions to address such allegations, ensuring that the process was different from regular election disputes.

Application: If a voter or a candidate wanted to challenge the Speaker's election, they would have to follow the procedures set out in Article 329A. This might involve a different legal process, possibly including a different court or tribunal and specific rules for presenting evidence.

Outcome: After the Forty-fourth Amendment, which came into effect on June 20, 1979, Article 329A was omitted. This meant that any future election disputes involving the Speaker would be treated the same as any other election dispute, without any special provisions or procedures.

## **PART XVI: SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES**

### **Article 330: Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.**

(1) Seats shall be reserved in the House of the People for -

(a) the Scheduled Castes;

(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.

Explanation. - In this article and in article 332, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

### **Simplified act**

(1) Seats will be reserved in the House of the People for:

- (a) Scheduled Castes;
- (b) Scheduled Tribes, except those in the autonomous districts of Assam; and
- (c) Scheduled Tribes in the autonomous districts of Assam.

(2) The number of reserved seats for Scheduled Castes or Scheduled Tribes in any State or Union territory should be in proportion to their population in that State or Union territory. This means if a State has a certain percentage of Scheduled Castes or Scheduled Tribes, the same percentage of seats should be reserved for them in the House of the People.

(3) Despite what is stated in clause (2), the number of reserved seats for Scheduled Tribes in the autonomous districts of Assam should be at least proportional to their population in those districts compared to the total population of the State.

Explanation. - In this article and in article 332, "population" refers to the population counted in the most recent census for which the figures have been published.

Provided that until the figures for the first census taken after the year 2026 are published, "population" will refer to the 2001 census.

Explanation using Example

Example 1:

Ravi is a member of the Scheduled Castes (SC) community living in the state of Uttar Pradesh. During the general elections, he notices that certain constituencies are marked as reserved for SC candidates. This means that only

candidates who belong to the Scheduled Castes can contest elections from these constituencies. This reservation ensures that members of the SC community have representation in the House of the People (Lok Sabha). Ravi decides to support a candidate from his community who he believes will address the issues faced by the SC community in his area.

Example 2:

Meena belongs to the Scheduled Tribes (ST) community and lives in an autonomous district in Assam. She learns that there are specific seats reserved for Scheduled Tribes in the House of the People. This reservation is designed to ensure that the ST community in autonomous districts, like hers, has adequate representation in the Lok Sabha. Meena is encouraged to participate in the electoral process, knowing that her community's interests will be represented at the national level. She actively participates in the campaign of an ST candidate from her district, hoping for better development and policies that cater to her community's needs.

### **Article 331: Representation of the Anglo-Indian community in the House of the People.**

Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

### **Simplified act**

Even though article 81 has its own rules, the President can decide to add up to two members from the Anglo-Indian community to the House of the People if he thinks they are not well represented.

Explanation using Example

Example 1:

In the year 2025, during the general elections, it was observed that no Anglo-Indian candidates were elected to the Lok Sabha (House of the People). The President of India, after consulting with various community leaders and assessing the situation, determined that the Anglo-Indian community was not adequately represented. To ensure their representation, the President nominated two prominent Anglo-Indian individuals, Mr. John D'Souza and Ms. Mary Fernandes, to the Lok Sabha. This action was taken under Article 331 of



the Constitution of India to ensure that the Anglo-Indian community had a voice in the legislative process.

Example 2:

In 2030, the Anglo-Indian community raised concerns about their lack of representation in the Lok Sabha, especially on issues affecting their community, such as education and employment opportunities. The President, acknowledging these concerns and recognizing the importance of diverse representation, decided to nominate two members from the Anglo-Indian community. Mr. Peter Rodrigues, a well-known social worker, and Ms. Angela Gomes, an educationist, were nominated to the Lok Sabha. This nomination helped address the community's concerns and ensured their participation in the legislative process, as provided by Article 331 of the Constitution of India.

**Article 332: Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.**

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) 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 State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year 2026, of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be:

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act,

1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2026, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district \* \* \*.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district \* \* \*:

Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of Bodoland Territorial Areas District, shall be maintained.

### **Simplified act**

(1) Seats will be set aside for Scheduled Castes and Scheduled Tribes in the Legislative Assembly of every State, except for the Scheduled Tribes in the autonomous districts of Assam.

(2) Seats will also be set aside for the autonomous districts in the Legislative Assembly of Assam.

(3) The number of seats reserved for Scheduled Castes or Scheduled Tribes in any State's Legislative Assembly should be in proportion to their population in that State compared to the total population of the State.

(3A) Despite what clause (3) says, until the first census after 2026 is used to readjust the number of seats in the Legislative Assemblies of Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland:

(a) If all the seats in the Legislative Assembly of such a State were held by Scheduled Tribes members when the Constitution (Fifty-seventh Amendment) Act, 1987 came into force, all seats except one will be reserved for Scheduled Tribes.

(b) In any other case, the number of seats reserved will be at least the same proportion as the number of Scheduled Tribes members in the existing Assembly compared to the total number of seats in that Assembly.

(3B) Despite what clause (3) says, until the first census after 2026 is used to readjust the number of seats in the Legislative Assembly of Tripura, the number of seats reserved for Scheduled Tribes will be at least the same proportion as the number of Scheduled Tribes members in the existing Assembly when the Constitution (Seventy-second Amendment) Act, 1992 came into force compared to the total number of seats in that Assembly.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of Assam should be in proportion to the population of that district compared to the total population of the State.

(5) The areas for the seats reserved for any autonomous district of Assam should not include any area outside that district.

(6) Only members of a Scheduled Tribe from an autonomous district of Assam can be elected to the Legislative Assembly from any constituency in that district:

Provided that for elections to the Legislative Assembly of Assam, the representation of Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, as notified and existing before the creation of Bodoland Territorial Areas District, will be maintained.

## Explanation using Example

### Example 1:

Ravi is a member of the Scheduled Castes (SC) community living in the state of Uttar Pradesh. During the state legislative assembly elections, he notices that certain seats are specifically reserved for candidates from the SC community. This means that only candidates who belong to the SC community can contest for these reserved seats. This reservation ensures that the SC community has adequate representation in the legislative assembly, reflecting their proportion in the state's population.

### Example 2:

Meera belongs to the Scheduled Tribes (ST) community in the state of Assam. She lives in an autonomous district within Assam. During the legislative assembly elections, she observes that there are reserved seats for the ST community in her district. Additionally, there are reserved seats for the autonomous district itself. This dual reservation ensures that both the ST community and the autonomous district have fair representation in the legislative assembly, based on their respective populations.

### Example 3:

In the state of Nagaland, the legislative assembly elections are approaching. According to the provisions of Article 332, all seats in the legislative assembly, except one, are reserved for members of the Scheduled Tribes (ST) community. This special provision ensures that the ST community, which forms a significant portion of the state's population, has substantial representation in the legislative assembly.

### Example 4:

Tripura is preparing for its legislative assembly elections. According to Article 332, the number of seats reserved for the Scheduled Tribes (ST) in the legislative assembly must be at least equal to the proportion of ST members in the existing assembly as of the date of the Constitution (Seventy-second Amendment) Act, 1992. This ensures that the ST community continues to have adequate representation in the legislative assembly until the next census-based re-adjustment.

### Example 5:

In Assam, the Bodoland Territorial Areas District (BTAD) has been notified. During the legislative assembly elections, it is ensured that the representation of both Scheduled Tribes (ST) and non-Scheduled Tribes (non-ST) in the constituencies within BTAD is maintained as it was before the constitution of BTAD. This provision ensures that the existing balance of representation is preserved, providing fair representation to both communities.

### **Article 333: Representation of the Anglo-Indian community in the Legislative Assemblies of the States.**

Notwithstanding anything in article 170, the Governor \* \* \* of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly.

### **Simplified act**

Despite what is mentioned in article 170, the Governor of a State can choose to add one member from the Anglo-Indian community to the State's Legislative Assembly if he believes that this community is not well represented there.

Explanation using Example

Example 1:

In the state of Tamil Nadu, the Governor notices that the Anglo-Indian community, which has a significant historical presence in the state, does not have any representatives in the Legislative Assembly. Recognizing the importance of their representation, the Governor decides to nominate Mr. John D'Souza, a respected member of the Anglo-Indian community, to the Legislative Assembly. This ensures that the community's interests and concerns are adequately represented in the state's legislative process.

Example 2:

In West Bengal, the Anglo-Indian community has been actively participating in various social and cultural activities but lacks political representation in the Legislative Assembly. The Governor, after consulting with community leaders and assessing the situation, concludes that the community's voice is not being heard in the legislative matters. To address this, the Governor nominates Ms. Mary Fernandes, an active social worker from the Anglo-Indian community, to the Legislative Assembly. This nomination helps in bringing the community's

issues to the forefront and ensures their inclusion in the legislative discussions.

**Article 334: Reservation of seats and special representation to cease after certain period.**

Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to -

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of eighty years in respect of clause (a) and seventy years in respect of clause (b) from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

**Simplified act**

Despite what was mentioned earlier in this Part, the following rules in the Constitution will change:

(a) The reserved seats for Scheduled Castes and Scheduled Tribes in the House of the People (Lok Sabha) and in the State Legislative Assemblies; and

(b) The representation of the Anglo-Indian community in the House of the People (Lok Sabha) and in the State Legislative Assemblies by nomination,

will stop being effective after 80 years for clause (a) and 70 years for clause (b) from the start of this Constitution:

However, this change will not affect any current members in the House of the People or in the State Legislative Assembly until those Houses or Assemblies are dissolved.

Explanation using Example

Example 1:

Imagine it is the year 2020. The Constitution of India commenced in 1950. According to Article 334, the reservation of seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in the Lok Sabha (House of the People) and State Legislative Assemblies is set to cease after 80 years, which would be in 2030.

A Scheduled Caste candidate, Mr. Kumar, is elected to the Lok Sabha in 2020. He is concerned about whether he will be able to serve his full term, given the approaching 2030 deadline. According to the proviso in Article 334, Mr. Kumar can serve his full term until the next general elections, even if his term extends beyond 2030, because the representation will not be affected until the dissolution of the then existing House.

Example 2:

Consider the Anglo-Indian community, which has had nominated representation in the Lok Sabha and State Legislative Assemblies. The Constitution of India commenced in 1950, and Article 334 states that this special representation will cease after 70 years, which would be in 2020.

In 2019, Ms. D'Souza, an Anglo-Indian, is nominated to the State Legislative Assembly of Maharashtra. She is worried about her position after 2020. According to Article 334, her nomination will remain valid until the dissolution of the current Legislative Assembly, even though the special representation provision ceases in 2020. This means Ms. D'Souza can continue to serve until the next elections are held and the Assembly is dissolved.

### **Article 335: Claims of Scheduled Castes and Scheduled Tribes to services and posts.**

The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State:

Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters or promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.

### **Simplified act**



When hiring for jobs related to the government (either at the national or state level), the needs of people from the Scheduled Castes and Scheduled Tribes should be considered, as long as it doesn't affect the efficiency of the administration:

However, this rule does not stop the government from making special provisions for people from the Scheduled Castes and Scheduled Tribes. These special provisions can include things like lowering the required marks in exams or setting different evaluation standards, and reserving certain jobs or promotions for them in government services.

#### Explanation using Example

##### Example 1:

Ravi, a member of the Scheduled Caste (SC), applies for a government job in the state of Maharashtra. The state government has a policy in place that reserves a certain percentage of jobs for SC and Scheduled Tribe (ST) candidates. During the selection process, Ravi scores slightly below the general qualifying marks. However, due to the provisions under Article 335, the state government considers his application by relaxing the qualifying marks for SC candidates. Ravi is eventually appointed to the post, ensuring that the efficiency of the administration is maintained while also honoring the claims of SC candidates.

##### Example 2:

Meena, a member of the Scheduled Tribe (ST), is working as a junior officer in a central government department. When a promotion opportunity arises, the department has a policy to reserve a certain percentage of promotions for SC and ST employees. Meena's performance is evaluated, and although her scores are slightly lower than the general standard, the department lowers the evaluation standards for ST candidates as per Article 335. Meena is promoted to a senior officer position, ensuring that the administration remains efficient while also providing fair opportunities for ST employees.

#### **Article 336: Special provision for Anglo-Indian community in certain services.**

(1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August, 1947.



During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent. than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

### **Simplified act**

(1) For the first two years after this Constitution starts, members of the Anglo-Indian community will be appointed to jobs in the railway, customs, postal, and telegraph services of the Union just like they were before August 15, 1947.

Every two years after that, the number of jobs reserved for the Anglo-Indian community in these services will be reduced by about ten percent compared to the previous two years:

However, after ten years from the start of this Constitution, there will be no more reserved jobs for the Anglo-Indian community.

(2) This rule does not stop members of the Anglo-Indian community from getting other jobs, or additional jobs, if they are qualified based on merit compared to people from other communities.

Explanation using Example

Example 1:

John, an Anglo-Indian, was working in the Indian Railways before August 15, 1947. After the Constitution of India came into effect, John was assured that for the first two years, his community would continue to receive the same level of job reservations in the railways as they did before independence. This meant that if there were 100 reserved posts for Anglo-Indians in the railways before August 15, 1947, the same number would be reserved for the first two years after the Constitution commenced. However, after every two years, the number of reserved posts would decrease by 10%. By the end of ten years, all such reservations would cease.

## Example 2:

Mary, another member of the Anglo-Indian community, applied for a job in the postal services in 1952. Although the number of reserved posts for Anglo-Indians had decreased by 10% from the previous two-year period, Mary was still eligible to apply for these reserved posts. Additionally, Mary was highly qualified and scored well in the competitive exams. As per clause (2) of Article 336, Mary was also considered for other posts in the postal services that were not specifically reserved for Anglo-Indians, based on her merit. This ensured that Mary had a fair chance of securing a job based on her qualifications, irrespective of the reservations.

### **Article 337: Special provision with respect to educational grants for the benefit of Anglo-Indian Community.**

During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

During every succeeding period of three years the grants may be less by ten per cent. than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease;

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent. of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

### **Simplified act**

For the first three years after this Constitution starts, the Union (central government) and each State will give the same amount of money for the education of the Anglo-Indian community as they did in the financial year ending on March 31, 1948.

Every three years after that, the amount of money given can be reduced by ten percent compared to the previous three years.

However, after ten years from the start of this Constitution, these special grants for the Anglo-Indian community will stop.

Additionally, no school or educational institution can receive this grant unless at least forty percent of their new students each year are from communities other than the Anglo-Indian community.

#### Explanation using Example

##### Example 1:

Scenario: An Anglo-Indian school in Mumbai, established before the commencement of the Constitution, received educational grants from the State Government in the financial year ending on March 31, 1948.

Application: For the first three financial years after the Constitution commenced, the school continued to receive the same amount of grants as it did in the financial year ending on March 31, 1948.

Outcome: From the fourth financial year onwards, the grants were reduced by 10% every three years. After ten years, the special grants specifically for the Anglo-Indian community ceased. However, the school ensured that at least 40% of its annual admissions were from communities other than the Anglo-Indian community to continue receiving any general educational grants.

##### Example 2:

Scenario: An Anglo-Indian college in Kolkata, which had been receiving educational grants from the Union Government in the financial year ending on March 31, 1948, sought to understand the future of its funding post-Constitution.

Application: For the first three financial years after the Constitution commenced, the college received the same amount of grants as it did in the financial year ending on March 31, 1948.

Outcome: In the fourth financial year, the grants were reduced by 10% and continued to reduce by 10% every three years. After ten years, the special grants for the Anglo-Indian community ceased. The college adapted by ensuring that at least 40% of its annual admissions were from non-Anglo-Indian communities to qualify for any other available educational grants.

### **Article 338: National Commission for Scheduled Castes.**

#### National Commission for the Scheduled Castes

- (1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
- (3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
- (4) The Commission shall have the power to regulate its own procedure.
- (5) It shall be the duty of the Commission -
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes \* \* \* under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes \* \* \*;
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes \* \* \* and to evaluate the progress of their development under the Union and any State;
  - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes \* \* \*; and
  - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes \* \* \* as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes \* \* \*.

(10) In this article, references to the Scheduled Castes \* \* \* shall be construed as including references \* \* \* to the Anglo-Indian community.

### **Simplified act**

#### National Commission for the Scheduled Castes

(1) There will be a Commission called the National Commission for the Scheduled Castes.

(2) According to laws made by Parliament, the Commission will have a Chairperson, Vice-Chairperson, and three other Members. The President will decide their service conditions and how long they will serve.

(3) The President will appoint the Chairperson, Vice-Chairperson, and other Members with an official document.

(4) The Commission can set its own rules for how it operates.

(5) The Commission's duties are:

(a) To look into and keep track of all matters related to the protections given to the Scheduled Castes under the Constitution, any law, or government orders, and to see how well these protections are working.

(b) To investigate specific complaints about the rights and protections of the Scheduled Castes being denied.

(c) To take part in and give advice on planning the socio-economic development of the Scheduled Castes and to check the progress of their development in the country and states.

(d) To report to the President every year, or whenever it thinks necessary, about how these protections are working.

(e) To make recommendations in these reports about what the Union or any State should do to effectively implement these protections and other measures for the protection, welfare, and socio-economic development of the Scheduled Castes.

(f) To perform other functions related to the protection, welfare, and development of the Scheduled Castes as specified by the President, according to any law made by Parliament.

(6) The President will present all these reports to both Houses of Parliament with a note explaining what actions have been taken or are planned based on the recommendations, and why any recommendations were not accepted.

(7) If any part of a report concerns a State Government, a copy will be sent to the Governor of that State, who will present it to the State Legislature with a note explaining what actions have been taken or are planned based on the recommendations, and why any recommendations were not accepted.

(8) While investigating matters or complaints, the Commission will have the same powers as a civil court, including:

(a) Summoning and making any person from any part of India attend and testify under oath.

(b) Asking for any document to be discovered and produced.

(c) Receiving evidence through affidavits.

(d) Requesting any public record or copy from any court or office.

(e) Issuing orders to examine witnesses and documents.

(f) Any other matter as determined by the President.

(9) The Union and every State Government must consult the Commission on all major policy matters affecting the Scheduled Castes.

(10) In this article, references to the Scheduled Castes also include the Anglo-Indian community.

Explanation using Example

Example 1:

Scenario: A Scheduled Caste student, Ramesh, faces discrimination at his university where he is denied access to certain facilities that are available to other students.

Application of the Act:

Investigation and Monitoring: Ramesh files a complaint with the National Commission for Scheduled Castes (NCSC). The Commission investigates the matter to ensure that the university is adhering to the safeguards provided under the Constitution and other laws.

Inquiry into Complaints: The NCSC inquires into Ramesh's specific complaint regarding the deprivation of his rights.

Recommendations: After the investigation, the NCSC presents a report to the President with recommendations on measures the university should take to prevent such discrimination in the future.

Action Taken Report: The President forwards the report to the Parliament, and the university is required to implement the recommended measures or provide reasons for non-acceptance.

#### Example 2:

Scenario: A village with a significant Scheduled Caste population lacks basic amenities such as clean drinking water and proper sanitation facilities.

#### Application of the Act:

Socio-Economic Development: The NCSC advises the local government on planning and implementing socio-economic development projects to improve the living conditions of the Scheduled Caste community in the village.

Evaluation of Progress: The NCSC evaluates the progress of these development projects and ensures that the benefits reach the intended community.

Annual Report: The NCSC includes the findings and recommendations in its annual report to the President, highlighting the need for further action or improvements.

Consultation on Policy Matters: The State Government consults the NCSC on major policy decisions affecting the Scheduled Castes to ensure their welfare and development are prioritized.

#### Example 3:

Scenario: A Scheduled Caste employee, Sita, is unfairly dismissed from her job at a government office without proper cause.

#### Application of the Act:

Inquiry into Complaints: Sita files a complaint with the NCSC. The Commission inquires into the specific complaint of unfair dismissal.

Civil Court Powers: During the investigation, the NCSC uses its powers similar to a civil court to summon witnesses, require the production of documents, and receive evidence on affidavits.

Recommendations: Based on the findings, the NCSC recommends reinstating Sita and taking disciplinary action against the responsible officials.



Action Taken Report: The President forwards the report to the relevant government department, which must implement the recommendations or provide reasons for non-acceptance.

#### Example 4:

Scenario: The State Government plans to implement a new policy that affects the reservation system for Scheduled Castes in educational institutions.

Application of the Act:

Consultation on Policy Matters: Before implementing the policy, the State Government consults the NCSC to ensure that the policy does not adversely affect the Scheduled Castes.

Recommendations: The NCSC reviews the policy and provides recommendations to ensure it aligns with the constitutional safeguards and promotes the welfare of the Scheduled Castes.

Implementation: The State Government incorporates the NCSC's recommendations into the policy to ensure it is fair and beneficial to the Scheduled Castes.

#### Example 5:

Scenario: A Scheduled Caste community in a remote area is unaware of their legal rights and the safeguards available to them.

Application of the Act:

Awareness Programs: The NCSC conducts awareness programs and workshops in the community to educate them about their rights and the safeguards provided under the Constitution and other laws.

Monitoring and Evaluation: The NCSC monitors the implementation of these safeguards in the area and evaluates their effectiveness.

Annual Report: The NCSC includes the findings and recommendations in its annual report to the President, highlighting the need for further awareness and education programs.

Action Taken Report: The President forwards the report to the relevant authorities, who are required to take action based on the recommendations to improve awareness and protection of the Scheduled Caste community.

### **Article 338A: National Commission for Scheduled Tribes.**

#### National Commission for the Scheduled Tribes

- (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
- (3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
- (4) The Commission shall have the power to regulate its own procedure.
- (5) It shall be the duty of the Commission -
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
  - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
  - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

### **Simplified act**

#### National Commission for the Scheduled Tribes

(1) There will be a Commission called the National Commission for the Scheduled Tribes.

(2) According to laws made by Parliament, the Commission will have a Chairperson, a Vice-Chairperson, and three other Members. The President will decide the rules for their service and how long they will serve.

(3) The President will appoint the Chairperson, Vice-Chairperson, and other Members of the Commission.

(4) The Commission can set its own rules for how it operates.

(5) The Commission has the following duties:

(a) To look into and keep track of all matters related to the protections given to Scheduled Tribes by the Constitution, any other law, or government orders, and to see how well these protections are working.

(b) To investigate specific complaints about the rights and protections of Scheduled Tribes being denied.

(c) To take part in and give advice on planning the socio-economic development of Scheduled Tribes and to check the progress of their development in the country and states.

(d) To report to the President every year, and at other times as needed, on how well these protections are working.

(e) To make recommendations in these reports about what the Union or any State should do to effectively implement these protections and other measures for the protection, welfare, and socio-economic development of Scheduled Tribes.

(f) To carry out other functions related to the protection, welfare, and development of Scheduled Tribes as specified by the President, according to any law made by Parliament.

(6) The President will present all these reports to both Houses of Parliament along with a note explaining what actions have been taken or are planned based on the recommendations, and the reasons for not accepting any recommendations, if applicable.

(7) If any part of a report concerns a State Government, a copy of the report will be sent to the Governor of that State. The Governor will present it to the State Legislature with a note explaining what actions have been taken or are planned based on the recommendations, and the reasons for not accepting any recommendations, if applicable.

(8) While investigating matters or complaints mentioned in points (a) and (b) of clause (5), the Commission will have the same powers as a civil court, including:

- (a) Summoning and making any person from any part of India attend and testify under oath.
  - (b) Asking for the discovery and production of any document.
  - (c) Receiving evidence through affidavits.
  - (d) Requesting any public record or copy from any court or office.
  - (e) Issuing commissions to examine witnesses and documents.
  - (f) Any other matter as determined by the President.
- (9) The Union and every State Government must consult the Commission on all major policy matters affecting Scheduled Tribes.

#### Explanation using Example

##### Example 1:

Scenario: A Scheduled Tribe community in a remote village in Jharkhand is facing illegal land acquisition by a private company.

##### Application of the Act:

Investigation and Monitoring: The National Commission for Scheduled Tribes (NCST) receives a complaint from the community about the illegal land acquisition.

Inquiry into Complaints: The NCST initiates an inquiry into the complaint to investigate the deprivation of rights of the Scheduled Tribe community.

Powers of Civil Court: During the investigation, the NCST uses its powers similar to a civil court to summon the company officials, require the production of land acquisition documents, and examine witnesses under oath.

Reporting and Recommendations: After the investigation, the NCST presents a report to the President of India, detailing the findings and recommending measures to protect the community's land rights.

Action by Government: The President forwards the report to the Parliament, and the Union Government takes necessary actions based on the recommendations to halt the illegal land acquisition and ensure the protection of the community's rights.

##### Example 2:

Scenario: A Scheduled Tribe student in Maharashtra is denied admission to a government college despite meeting the eligibility criteria.

Application of the Act:

Inquiry into Complaints: The student files a complaint with the NCST regarding the denial of admission.

Investigation and Monitoring: The NCST investigates the complaint to determine if there has been a violation of the safeguards provided for Scheduled Tribes under the Constitution or any other law.

Powers of Civil Court: The NCST uses its powers to summon the college authorities, require the production of admission records, and examine the evidence on affidavits.

Reporting and Recommendations: The NCST finds that the student was unfairly denied admission and recommends corrective measures to the college and the state government.

Action by Government: The report is forwarded to the Governor of Maharashtra, who lays it before the State Legislature. The state government takes action to ensure the student is admitted to the college and implements measures to prevent such incidents in the future.

Example 3:

Scenario: The Union Government is planning a new socio-economic development program for Scheduled Tribes.

Application of the Act:

Consultation on Policy Matters: Before finalizing the program, the Union Government consults the NCST to seek its advice on the planning process.

Participation and Advice: The NCST participates in the planning process, providing insights and recommendations to ensure the program effectively addresses the socio-economic development needs of Scheduled Tribes.

Evaluation of Progress: Once the program is implemented, the NCST monitors and evaluates its progress, presenting annual reports to the President on the effectiveness of the program and suggesting further improvements.

Action by Government: Based on the NCST's reports and recommendations, the Union Government makes necessary adjustments to the program to enhance its impact on the welfare and development of Scheduled Tribes.

Example 4:

Scenario: A Scheduled Tribe community in Odisha is facing issues with access to basic amenities like clean water and healthcare.

Application of the Act:

Investigation and Monitoring: The NCST receives a complaint from the community about the lack of basic amenities.

Inquiry into Complaints: The NCST conducts an inquiry to investigate the deprivation of rights and safeguards of the Scheduled Tribe community.

Powers of Civil Court: The NCST uses its powers to summon local government officials, require the production of relevant documents, and examine witnesses to gather evidence.

Reporting and Recommendations: The NCST presents a report to the President, highlighting the issues faced by the community and recommending measures to improve access to basic amenities.

Action by Government: The President forwards the report to the Parliament and the state government. The state government takes action to provide clean water and healthcare facilities to the community, based on the NCST's recommendations.

Example 5:

Scenario: A Scheduled Tribe employee in a government office in Madhya Pradesh faces discrimination and harassment at the workplace.

Application of the Act:

Inquiry into Complaints: The employee files a complaint with the NCST regarding workplace discrimination and harassment.

Investigation and Monitoring: The NCST investigates the complaint to determine if there has been a violation of the employee's rights and safeguards.

**Powers of Civil Court:** The NCST uses its powers to summon the office authorities, require the production of relevant documents, and examine witnesses under oath.

**Reporting and Recommendations:** The NCST finds evidence of discrimination and harassment and recommends disciplinary action against the responsible officials and measures to prevent such incidents in the future.

**Action by Government:** The report is forwarded to the Governor of Madhya Pradesh, who lays it before the State Legislature. The state government takes action to address the issue and implement the NCST's recommendations to ensure a safe and fair working environment for the employee.

### **Article 338B: National Commission for Backward Classes.**

#### **National Commission for Backward Classes**

(1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission -

(a) to investigate and monitor all matters relating to the safeguards provided for the socially and educationally backward classes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the socially and educationally backward classes;

(c) to participate and advise on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State;



(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports the recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the socially and educationally backward classes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government which shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes:

Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A.

### **Simplified act**

#### National Commission for Backward Classes

(1) There will be a Commission called the National Commission for Backward Classes to help socially and educationally backward groups.

(2) According to laws made by Parliament, the Commission will have a Chairperson, Vice-Chairperson, and three other Members. The President will decide their working conditions and how long they will serve.

(3) The President will appoint the Chairperson, Vice-Chairperson, and other Members of the Commission.

(4) The Commission can set its own rules for how it operates.

(5) The Commission has the following duties:

(a) To look into and keep track of all matters related to the protections given to socially and educationally backward groups under the Constitution or any other law, and to check how well these protections are working.

(b) To investigate specific complaints about the rights and protections of these groups being denied.

(c) To help and give advice on the social and economic development of these groups and to check their progress.

(d) To report to the President every year, or whenever it thinks necessary, about how well these protections are working.

(e) To suggest in these reports what actions the Union or any State should take to better protect and develop these groups.

(f) To do any other tasks related to the protection, welfare, and development of these groups as specified by the President.

(6) The President will present all these reports to both Houses of Parliament, along with an explanation of what actions have been taken or are planned

based on the recommendations, and why any recommendations were not accepted.

(7) If any part of a report concerns a State Government, a copy will be sent to that State Government. The State Government will present it to the State Legislature with an explanation of what actions have been taken or are planned, and why any recommendations were not accepted.

(8) While investigating matters or complaints, the Commission will have the same powers as a civil court, including:

(a) Summoning and making any person in India attend and testify under oath.

(b) Asking for any documents to be produced.

(c) Accepting evidence given in written statements.

(d) Requesting any public records or copies from any court or office.

(e) Issuing orders to examine witnesses and documents.

(f) Any other powers given by the President.

(9) The Union and every State Government must consult the Commission on all major policy matters affecting socially and educationally backward groups:

Provided that this does not apply to clause (3) of article 342A.

Explanation using Example

Example 1:

Scenario: A student from a socially and educationally backward class (SEBC) is denied admission to a prestigious university despite meeting the eligibility criteria.

Application of the Act:

Investigation and Monitoring: The National Commission for Backward Classes (NCBC) can investigate the matter to ensure that the university is adhering to the safeguards provided for SEBCs under the Constitution and other laws.

Inquiry into Complaints: The student can file a complaint with the NCBC regarding the deprivation of their rights. The Commission will inquire into the specific complaint.

**Recommendations:** After investigating, the NCBC can present a report to the President with recommendations on measures to be taken to prevent such issues in the future.

**Powers of a Civil Court:** During the investigation, the NCBC can summon university officials, require the production of relevant documents, and examine witnesses under oath.

#### Example 2:

**Scenario:** A state government plans to implement a new economic development program but is unsure how it will impact the socially and educationally backward classes.

#### Application of the Act:

**Consultation on Policy Matters:** The state government must consult the NCBC on this major policy matter affecting SEBCs.

**Advice on Socio-Economic Development:** The NCBC can provide advice on how the program can be designed to benefit SEBCs and ensure their socio-economic development.

**Evaluation of Progress:** The NCBC can later evaluate the progress of the program and its impact on SEBCs, and report its findings to the President.

**Reports and Recommendations:** The NCBC can include its findings and recommendations in its annual report to the President, suggesting further measures for the effective implementation of safeguards and welfare programs for SEBCs.

#### Example 3:

**Scenario:** A socially and educationally backward class community feels that their rights are being ignored in a government housing scheme.

#### Application of the Act:

**Inquiry into Complaints:** The community can lodge a complaint with the NCBC about the deprivation of their rights in the housing scheme.

**Investigation:** The NCBC will investigate the complaint, examining relevant documents and summoning officials if necessary.

Recommendations: Based on the investigation, the NCBC can recommend changes to the housing scheme to ensure it is inclusive of SEBCs.

Reporting to the President: The NCBC will report its findings and recommendations to the President, who will then present the report to Parliament along with an explanation of the actions taken or proposed.

Example 4:

Scenario: A state government receives a report from the NCBC highlighting issues faced by SEBCs in accessing healthcare services.

Application of the Act:

Forwarding Reports: The state government must forward the NCBC's report to the state legislature.

Action Taken Memorandum: The state government must also provide a memorandum explaining the actions taken or proposed based on the NCBC's recommendations, and reasons for any non-acceptance of recommendations.

Implementation of Measures: The state government can then implement measures to improve healthcare access for SEBCs, as advised by the NCBC.

Example 5:

Scenario: A socially and educationally backward class individual is summoned by the NCBC to provide evidence in an investigation.

Application of the Act:

Powers of a Civil Court: The NCBC has the authority to summon individuals from any part of India and examine them under oath.

Collection of Evidence: The individual can be required to produce documents or provide evidence on affidavits as part of the investigation.

Ensuring Compliance: The NCBC can issue commissions for the examination of witnesses and documents to ensure a thorough investigation.

**Article 339: Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.**

(1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to

report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States \* \* \*.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

### **Simplified act**

(1) The President can, at any time, and must, after ten years from when this Constitution started, appoint a Commission to look into how the Scheduled Areas are being managed and how the Scheduled Tribes are being treated in the States.

The order can specify who will be on the Commission, what powers it will have, and how it will operate. It can also include any other details the President thinks are necessary or helpful.

(2) The central government has the authority to give instructions to a State on how to create and carry out plans that are essential for the well-being of the Scheduled Tribes in that State.

Explanation using Example

Example 1:

Scenario: The President of India appoints a Commission to review the administration of Scheduled Areas in the state of Jharkhand.

Details:

The President issues an order to form a Commission consisting of experts in tribal welfare, government officials, and representatives from Scheduled Tribes.

The Commission is tasked with visiting various Scheduled Areas in Jharkhand, collecting data, and interacting with local tribal communities to understand their issues.

After a thorough review, the Commission submits a report highlighting the need for better healthcare facilities, educational institutions, and infrastructure in these areas.

Based on the report, the President directs the state government of Jharkhand to implement specific schemes such as building new schools, improving healthcare services, and constructing roads in the Scheduled Areas.

The state government is required to follow these directions and ensure the welfare of the Scheduled Tribes as per the schemes outlined by the Union.

Example 2:

Scenario: The Union Government issues directions to the state of Odisha for the welfare of Scheduled Tribes.

Details:

The President, after receiving reports of inadequate welfare measures for Scheduled Tribes in Odisha, decides to intervene.

An order is issued to the state government of Odisha, directing them to implement a comprehensive scheme for the economic development of Scheduled Tribes.

The scheme includes provisions for skill development programs, financial assistance for tribal entrepreneurs, and the establishment of tribal cooperatives.

The Union Government monitors the implementation of these schemes and provides necessary support and resources to the state government.

The state government of Odisha is obligated to follow these directions and ensure that the welfare measures are effectively executed, thereby improving the living standards of the Scheduled Tribes in the state.

**Article 340: Appointment of a Commission to investigate the conditions of backward classes.**

(1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to

improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

### **Simplified act**

(1) The President can set up a Commission with people he chooses to look into the situation of socially and educationally backward classes in India. This Commission will investigate the problems these groups face and suggest what the government (either the central government or state governments) should do to help them. They will also recommend how much money should be given to help these groups and under what conditions. The order to set up this Commission will also explain how the Commission should do its work.

(2) The Commission will look into the issues they are asked to investigate and will write a report for the President. This report will include the facts they found and their suggestions on what should be done.

(3) The President will make sure that a copy of this report, along with a note explaining what actions have been taken based on the report, is presented to both Houses of Parliament.

Explanation using Example

Example 1:

Scenario: The President of India notices that a particular region in the country has a significant population of a community that is socially and educationally backward. There are reports of high dropout rates in schools and limited access to higher education and employment opportunities for this community.

Application of Article 340:



**Appointment of Commission:** The President appoints a Commission consisting of experts in education, social sciences, and community leaders to investigate the conditions of this backward class.

**Investigation:** The Commission conducts surveys, interviews, and studies to understand the challenges faced by the community, such as lack of schools, poor infrastructure, and economic hardships.

**Report and Recommendations:** After thorough investigation, the Commission presents a report to the President detailing the issues and recommending measures such as building more schools, providing scholarships, and creating job training programs.

**Action Taken:** The President submits the report to both Houses of Parliament along with a memorandum explaining the steps the government plans to take based on the recommendations, such as allocating funds for new schools and launching skill development programs.

#### Example 2:

**Scenario:** A state government in India is concerned about the low representation of a particular backward class in government jobs and higher education institutions. They believe that this community faces systemic barriers that need to be addressed.

#### Application of Article 340:

**Appointment of Commission:** The President, upon request from the state government, appoints a Commission to investigate the conditions of this backward class and the barriers they face in accessing government jobs and higher education.

**Investigation:** The Commission gathers data on employment rates, educational attainment, and conducts focus group discussions with members of the community to identify specific challenges such as discrimination, lack of awareness about job opportunities, and financial constraints.

**Report and Recommendations:** The Commission submits a report to the President with findings and recommendations, such as implementing reservation policies, conducting awareness campaigns, and providing financial aid for higher education.

Action Taken: The President lays the report before both Houses of Parliament along with a memorandum detailing the actions to be taken, such as introducing reservation quotas in government jobs and higher education institutions, and launching scholarship programs for students from the backward class.

Example 3:

Scenario: A national survey reveals that a certain backward class in rural areas across multiple states has very low literacy rates and poor access to healthcare services.

Application of Article 340:

Appointment of Commission: The President appoints a Commission with members from various fields including education, healthcare, and rural development to investigate the conditions of this backward class.

Investigation: The Commission visits rural areas, conducts health camps, educational assessments, and interacts with the community to understand their issues, such as lack of schools, inadequate healthcare facilities, and economic hardships.

Report and Recommendations: The Commission presents a report to the President with recommendations like building primary health centers, establishing schools, and providing vocational training to improve economic conditions.

Action Taken: The President places the report before both Houses of Parliament along with a memorandum explaining the government's plan to allocate funds for building healthcare and educational infrastructure, and launching vocational training programs to uplift the community.

### **Article 341: Scheduled Castes.**

(1) The President may with respect to any State or Union territory, and where it is a State \* \* \*, after consultation with the Governor \* \* \* thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

### **Simplified act**

(1) The President can, for any State or Union territory, and for a State after talking to the Governor, announce publicly which castes, races, or tribes, or parts or groups within them, will be considered as Scheduled Castes for that State or Union territory according to the Constitution.

(2) Parliament can make laws to add or remove any caste, race, or tribe, or parts or groups within them, from the list of Scheduled Castes mentioned in the President's announcement. However, once the President has made an announcement, it cannot be changed by any other announcement.

#### Explanation using Example

##### Example 1:

Ravi, a resident of Uttar Pradesh, belongs to a community that has historically faced social discrimination. His community is listed as a Scheduled Caste (SC) in the public notification issued by the President of India. This means Ravi is eligible for certain benefits and protections under the Indian Constitution, such as reservation in educational institutions and government jobs. If Ravi applies for a government job, he can avail of the reservation quota for Scheduled Castes, which increases his chances of securing employment.

##### Example 2:

Meena, from Tamil Nadu, belongs to a community that is not currently listed as a Scheduled Caste in the state. However, her community has been facing social and economic hardships similar to those faced by other Scheduled Castes. The community leaders petition the state government to include their community in the Scheduled Castes list. After consultation with the Governor, the President issues a public notification including Meena's community in the Scheduled Castes list for Tamil Nadu. Now, Meena and others from her community can benefit from the reservations and protections provided to Scheduled Castes.

##### Example 3:

Parliament reviews the list of Scheduled Castes and finds that a particular community in Maharashtra, previously listed as a Scheduled Caste, has significantly improved its socio-economic status and no longer faces the same level of discrimination. Parliament passes a law to exclude this community from the Scheduled Castes list. As a result, members of this community will no longer be eligible for the specific benefits and protections reserved for Scheduled Castes.

Example 4:

An NGO in Karnataka conducts a study and finds that a small tribal group within a larger Scheduled Caste community is not receiving the benefits intended for them due to lack of awareness and administrative oversight. The NGO petitions the state government to recognize this subgroup separately. After consultation with the Governor, the President issues a public notification specifying this subgroup as a distinct entity within the Scheduled Castes list for Karnataka. This ensures that the subgroup receives targeted benefits and protections.

Example 5:

A new Union Territory is created, and the President needs to specify which castes, races, or tribes will be considered Scheduled Castes in this new territory. After consulting with the administrators of the Union Territory, the President issues a public notification listing the relevant communities. This ensures that the Scheduled Castes in the new Union Territory receive the same constitutional protections and benefits as those in other states and territories.

**Article 342: Scheduled Tribes.**

(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

## Simplified act

(1) The President can, for any State or Union territory, and if it's a State, after talking with the Governor, officially announce which tribes or tribal communities, or parts of them, will be considered as Scheduled Tribes for that State or Union territory according to the Constitution.

(2) Parliament can make laws to add or remove tribes or tribal communities, or parts of them, from the list of Scheduled Tribes mentioned in the President's announcement under clause (1). However, once the President has made an announcement, it cannot be changed by any other announcement.

Explanation using Example

Example 1:

Scenario: The President of India, after consulting with the Governor of Maharashtra, issues a public notification declaring the "Warli" tribe as a Scheduled Tribe in the state of Maharashtra.

Application:

The Warli tribe, which is indigenous to Maharashtra, will now be officially recognized as a Scheduled Tribe.

Members of the Warli tribe will be eligible for various benefits and protections under the Constitution of India, such as reservations in educational institutions, government jobs, and special welfare schemes.

This recognition helps in preserving the cultural heritage and providing socio-economic support to the Warli community.

Example 2:

Scenario: Parliament passes a law to include the "Gond" tribe in the list of Scheduled Tribes in the state of Madhya Pradesh, which was previously not included in the notification issued by the President.

Application:

The Gond tribe, which is a significant tribal community in Madhya Pradesh, will now be added to the list of Scheduled Tribes.

This inclusion means that the Gond tribe will now receive the same benefits and protections as other Scheduled Tribes in the state.

The law passed by Parliament ensures that the Gond tribe can access reservations in education and employment, and benefit from various government schemes aimed at improving their socio-economic status.

Example 3:

Scenario: The President issues a notification declaring the "Toda" tribe as a Scheduled Tribe in the Union Territory of Andaman and Nicobar Islands. Later, Parliament passes a law to exclude the "Toda" tribe from the list of Scheduled Tribes in this Union Territory.

Application:

Initially, the Toda tribe is recognized as a Scheduled Tribe in the Andaman and Nicobar Islands, making them eligible for various constitutional benefits.

However, with the new law passed by Parliament, the Toda tribe is removed from the list of Scheduled Tribes in this Union Territory.

As a result, the Toda tribe will no longer receive the benefits and protections associated with being a Scheduled Tribe in the Andaman and Nicobar Islands, although they may still be recognized as a Scheduled Tribe in other states or Union Territories where they are listed.

**Article 342A: Socially and educationally backward classes.**

(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Explanation: For the purposes of clauses (1) and (2), the expression "Central List" means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding anything contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.

### **Simplified act**

(1) The President can, for any State or Union territory, and if it's a State, after talking with the Governor, publicly announce which groups are considered socially and educationally backward in the Central List. These groups will be treated as socially and educationally backward for that State or Union territory by the Central Government.

(2) Parliament can make laws to add or remove groups from the Central List of socially and educationally backward classes mentioned in the President's announcement. However, once the President has made an announcement, it cannot be changed by any other announcement.

Explanation: For clauses (1) and (2), the "Central List" refers to the list of socially and educationally backward classes created and maintained by the Central Government.

(3) Despite what is said in clauses (1) and (2), every State or Union territory can create and maintain its own list of socially and educationally backward classes for its own use. This list can be different from the Central List.

Explanation using Example

Example 1:

Ravi is a student from a small village in the state of Maharashtra. His family belongs to a community that has historically faced social and educational disadvantages. The President of India, after consulting with the Governor of Maharashtra, issues a public notification specifying Ravi's community as a socially and educationally backward class (SEBC) in the Central List. This means that Ravi and others from his community are now eligible for certain benefits and reservations in central government jobs and educational institutions.

Example 2:

In the state of Tamil Nadu, the state government identifies a particular community that has not been included in the Central List but is considered

socially and educationally backward within the state. The Tamil Nadu government, using its powers under clause (3) of Article 342A, prepares and maintains its own list of SEBCs, which includes this community. As a result, members of this community can now avail benefits and reservations in state government jobs and educational institutions, even though they are not recognized as SEBCs at the central level.

## **PART XVII: OFFICIAL LANGUAGE**

### **CHAPTER I: LANGUAGE OF THE UNION**

#### **Article 343: Official language of the Union.**

##### Official Language of the Union

(1) The official language of the Union shall be Hindi in Devanagari script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of:

- (a) the English language, or
- (b) the Devanagari form of numerals,

for such purposes as may be specified in the law.

#### **Simplified act**

##### Official Language of the Union

(1) The main language for the Union's official work will be Hindi, written in the Devanagari script. For numbers, the Union will use the international form of Indian numerals.



(2) Even though Hindi is the main language, for the first fifteen years after this Constitution starts, English will also be used for all official work, just like it was before the Constitution started:

However, the President can decide, during these fifteen years, to allow the use of Hindi along with English, and the Devanagari numerals along with the international numerals for any official work.

(3) After these fifteen years, Parliament can make laws to continue using:

(a) the English language, or

(b) the Devanagari numerals, for any purposes mentioned in those laws.

Explanation using Example

Example 1:

Scenario: Government Documents and Communication

Situation: A citizen named Rajesh wants to file a Right to Information (RTI) application to obtain information from a central government department.

Application of Article 343:

Rajesh can submit his RTI application in Hindi, as it is the official language of the Union.

If Rajesh is more comfortable with English, he can also submit the application in English, as English continues to be used for official purposes.

The response from the government department can be provided in either Hindi or English, depending on the language used in the application and the department's capabilities.

Example 2:

Scenario: Parliamentary Proceedings

Situation: A Member of Parliament (MP) named Priya wants to introduce a bill in the Lok Sabha.

Application of Article 343:

Priya can draft and introduce the bill in Hindi, as it is the official language of the Union.

If Priya prefers, she can also draft and introduce the bill in English, as English is still used for official purposes.

During the debate, MPs can speak in either Hindi or English, and the official records of the proceedings will be maintained in both languages.

Example 3:

Scenario: Government Notifications and Circulars

Situation: The Ministry of Home Affairs needs to issue a notification regarding new security measures.

Application of Article 343:

The notification can be issued in Hindi, following the official language policy.

The Ministry can also issue the notification in English to ensure wider understanding and compliance.

If the President authorizes, the notification can include the Devanagari form of numerals along with the international form of Indian numerals.

Example 4:

Scenario: Educational Institutions

Situation: A central government-funded university is preparing its official documents, including admission forms and certificates.

Application of Article 343:

The university can prepare these documents in Hindi, adhering to the official language of the Union.

The university can also prepare these documents in English to cater to students from different linguistic backgrounds.

After the initial fifteen-year period, if Parliament enacts a law, the university may continue to use English or the Devanagari form of numerals as specified by the law.

**Article 344: Commission and Committee of Parliament on official language.**

(1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to -

(a) the progressive use of the Hindi language for the official purposes of the Union;

(b) restrictions on the use of the English language for all or any of the official purposes of the Union;

(c) the language to be used for all or any of the purposes mentioned in article 348;

(d) the form of numerals to be used for any one or more specified purposes of the Union;

(e) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

### **Simplified act**

(1) Five years after this Constitution starts, and then every ten years after that, the President will set up a Commission. This Commission will have a Chairman and other members who represent the different languages listed in the Eighth Schedule. The President will decide who these members are and how the Commission will work.

(2) The Commission's job is to give advice to the President about:

(a) How to gradually use Hindi more for official government work;

(b) Limiting the use of English for any official government work;

(c) Which language to use for the purposes mentioned in article 348;

(d) What type of numbers to use for specific government purposes;

(e) Any other language-related issues the President asks about, including communication between the central government and states, or between different states.

(3) When giving their advice, the Commission should consider India's progress in industry, culture, and science, and also think about the fair interests of people from non-Hindi speaking areas, especially regarding government jobs.

(4) A Committee will be formed with thirty members: twenty from the House of the People and ten from the Council of States. These members will be elected by their respective houses using a proportional representation system with a single transferable vote.

(5) The Committee's job is to review the Commission's recommendations and give their opinion to the President.

(6) Even though article 343 says otherwise, the President can issue orders based on all or part of the Committee's report after considering it.

Explanation using Example

Example 1:

Scenario: The President of India has just completed the first five years of their term since the commencement of the Constitution.

Application:

The President issues an order to constitute a Commission.

The Commission includes a Chairman and members representing different languages listed in the Eighth Schedule of the Constitution.

The Commission's duty is to make recommendations on:

Increasing the use of Hindi for official purposes.

Limiting the use of English for official purposes.

Deciding the language for purposes mentioned in Article 348 (e.g., proceedings in the Supreme Court and High Courts).

Determining the form of numerals to be used for official purposes.

Any other language-related matters referred by the President.

Outcome: The Commission submits its recommendations, considering India's industrial, cultural, and scientific progress and the interests of non-Hindi speaking regions.

Example 2:

Scenario: Ten years have passed since the last Commission was constituted, and the President needs to form a new Commission.

Application:

The President issues an order to form a new Commission with a Chairman and members representing various languages from the Eighth Schedule.

The Commission reviews the current use of Hindi and English in official matters and makes new recommendations.

The Commission also considers the language for communication between the Union and States and between different States.

Outcome: The Commission submits its recommendations, which are then reviewed by a Committee of thirty members (twenty from the House of the

People and ten from the Council of States). The Committee reports its opinion to the President.

Final Step: The President, after considering the Committee's report, may issue directions based on the recommendations, which could include changes in the use of official languages and numerals for Union purposes.

## **CHAPTER II: REGIONAL LANGUAGES**

### **Article 345: Official language or languages of a State.**

Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

### **Simplified act**

According to the rules in articles 346 and 347, the government of a State can choose any language(s) spoken in the State or Hindi to be used for official work in that State.

However, until the State government makes a new law about this, English will continue to be used for official work in the State, just like it was used before this Constitution started.

Explanation using Example

Example 1:

The state of Maharashtra has a significant Marathi-speaking population. The Maharashtra State Legislature decides to adopt Marathi as the official language for all government communications, including official documents, public notices, and educational materials. However, for certain purposes like higher judiciary proceedings and inter-state communications, English continues to be used. This decision is in line with Article 345, which allows the state to choose

its official language while still using English for specific purposes until a new law is enacted.

#### Example 2:

In the state of Tamil Nadu, Tamil is predominantly spoken. The Tamil Nadu State Legislature passes a law making Tamil the official language for all state government activities, including local administration, public services, and legislative proceedings. However, English remains in use for official purposes such as correspondence with the central government and other states, as it was used before the Constitution came into effect. This scenario illustrates the application of Article 345, where the state adopts a regional language while maintaining English for certain official functions.

### **Article 346: Official language for communication between one State and another or between a State and the Union.**

The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

### **Simplified act**

The language that is currently allowed for official use in the country will be the official language for communication between one State and another State, and between a State and the Union government:

Provided that if two or more States agree that Hindi should be the official language for communication between them, then Hindi can be used for that purpose.

#### Explanation using Example

##### Example 1:

Scenario: Maharashtra and Gujarat need to coordinate on a joint infrastructure project.

Application: According to Article 346, the official language for communication between Maharashtra and Gujarat would be the language currently authorized

for use in the Union for official purposes, which is Hindi. However, if both states agree, they can choose to communicate in Hindi or any other mutually agreed language.

Outcome: Maharashtra and Gujarat decide to use Hindi for their official communications regarding the project, as both states have agreed to this arrangement.

Example 2:

Scenario: Tamil Nadu needs to send an official report to the Central Government in Delhi.

Application: As per Article 346, the official language for communication between Tamil Nadu and the Union (Central Government) would be Hindi, which is the language authorized for use in the Union for official purposes.

Outcome: Tamil Nadu prepares the official report in Hindi and sends it to the Central Government in Delhi, ensuring compliance with the constitutional requirement.

**Article 347: Special provision relating to language spoken by a section of the population of a State.**

On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

**Simplified act**

If a significant number of people in a State want their language to be officially recognized, they can request it. If the President agrees that many people want this, he can order that the language be officially recognized in the whole State or in specific parts of it for certain purposes he decides.

Explanation using Example

Example 1:

In the state of Maharashtra, a significant portion of the population in a particular district speaks Konkani. The residents of this district collectively submit a petition to the President of India, requesting that Konkani be



recognized as an official language in their district. After reviewing the petition and confirming that a substantial proportion of the population desires this change, the President directs the state government to officially recognize Konkani for administrative purposes in that district. As a result, government offices in the district start providing forms and conducting official business in Konkani, in addition to Marathi and Hindi.

Example 2:

In the state of Karnataka, a large community of people in a specific region speaks Tulu. The community leaders gather support and formally request the President to recognize Tulu as an official language in their region. The President, upon being satisfied with the substantial demand, issues a directive to the Karnataka state government to recognize Tulu as an official language in that region. Consequently, schools in the region begin offering Tulu as a medium of instruction, and local government services are made available in Tulu, ensuring that the community can access public services in their native language.

### **CHAPTER III: LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.**

#### **Article 348: Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.**

(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides -

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts -

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor \* \* \* of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor \* \* \* of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor \* \* \* of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor \* \* \* of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

### **Simplified act**

(1) Despite what has been said earlier in this Part, until Parliament decides otherwise by law -

(a) all court cases in the Supreme Court and every High Court,

(b) the official versions -

(i) of all Bills to be introduced or changes to be made in either House of Parliament or in the State Legislature,

(ii) of all laws passed by Parliament or the State Legislature and all emergency laws made by the President or the Governor of a State, and

(iii) of all orders, rules, regulations, and by-laws issued under this Constitution or any law made by Parliament or the State Legislature, shall be in the English language.

(2) Despite what is said in part (a) of clause (1), the Governor of a State can, with the President's prior approval, allow the use of Hindi or any other language used for official purposes of the State, in the High Court of that State:

Provided that this does not apply to any judgment, decree, or order made by such High Court.

(3) Despite what is said in part (b) of clause (1), if the State Legislature has decided to use a language other than English for Bills introduced, laws passed, or emergency laws made by the Governor, or any order, rule, regulation, or by-law mentioned in part (iii) of that clause, a translation in English published under the Governor's authority in the Official Gazette of that State will be considered the official English version under this article.

#### Explanation using Example

##### Example 1:

Scenario: A new law is being introduced in the Parliament of India.

##### Details:

A Member of Parliament (MP) drafts a Bill to introduce a new law on data privacy.

According to Article 348(1)(b)(i), the authoritative text of this Bill must be in English.

The Bill is introduced in the Lok Sabha (House of the People) in English.

After debates and amendments, the Bill is passed by both Houses of Parliament.

The final Act, as passed by Parliament, is also in English as per Article 348(1)(b)(ii).

Outcome: The entire process, from the introduction of the Bill to the passing of the Act, is conducted in English, ensuring uniformity and clarity in the legal language used.

##### Example 2:

Scenario: A High Court in a Hindi-speaking state wants to conduct proceedings in Hindi.

##### Details:

The High Court of Uttar Pradesh, where Hindi is widely spoken, seeks to conduct its proceedings in Hindi.

The Governor of Uttar Pradesh, with the previous consent of the President of India, authorizes the use of Hindi in the High Court's proceedings as per Article 348(2).

However, any judgments, decrees, or orders passed by the High Court must still be in English, ensuring consistency in legal documentation.

Outcome: The High Court conducts its proceedings in Hindi, making it easier for local lawyers and litigants to participate. However, the final judgments and orders are issued in English to maintain a standard legal record.

Example 3:

Scenario: A state legislature passes a law in the local language.

Details:

The Legislature of Tamil Nadu passes a new law regarding agricultural practices, and the law is drafted in Tamil.

According to Article 348(3), a translation of this law in English must be published in the Official Gazette of Tamil Nadu.

The English translation, published under the authority of the Governor, is considered the authoritative text of the law.

Outcome: The law is accessible to Tamil-speaking citizens in their local language, while the English translation ensures that the law is understood and recognized at the national level and by non-Tamil speakers.

Example 4:

Scenario: A state government issues new regulations in the local language.

Details:

The Government of Maharashtra issues new regulations on environmental protection, and the regulations are drafted in Marathi.

As per Article 348(3), an English translation of these regulations is published in the Official Gazette of Maharashtra.

The English version is deemed the authoritative text, ensuring that the regulations are clear and enforceable across different linguistic groups.

Outcome: The regulations are available in Marathi for local understanding, while the English translation ensures legal clarity and uniformity.

**Article 349: Special procedure for enactment of certain laws relating to language.**

During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

**Simplified act**

For fifteen years from the start of this Constitution, no new law or change to a law about the language used for the purposes mentioned in clause (1) of article 348 can be introduced or discussed in either House of Parliament without the President's prior approval. The President will only give this approval after considering the recommendations of the Commission set up under clause (1) of article 344 and the report of the Committee set up under clause (4) of that article.

Explanation using Example

Example 1:

Scenario: Introduction of a Bill to make Hindi the sole language for all Supreme Court proceedings.

Explanation: Suppose a group of Members of Parliament (MPs) wants to introduce a Bill that mandates Hindi as the only language to be used in the Supreme Court of India. According to Article 349, they cannot simply introduce this Bill in Parliament. They must first obtain the previous sanction of the President of India.

Process:

The MPs draft the Bill and submit it to the President for approval.

The President reviews the Bill and considers the recommendations of the Commission constituted under Article 344(1) and the report of the Committee constituted under Article 344(4).

If the President is satisfied with the recommendations and the report, he may give his sanction for the Bill to be introduced in Parliament.

Only after receiving the President's sanction can the Bill be introduced in either House of Parliament.

#### Example 2:

Scenario: Amendment to include regional languages in High Court proceedings.

Explanation: Imagine there is a proposal to amend the existing law to allow regional languages like Tamil, Bengali, and Marathi to be used in High Court proceedings in their respective states. This amendment cannot be moved in Parliament without the President's prior sanction.

#### Process:

The proposal for the amendment is prepared and submitted to the President.

The President evaluates the proposal, taking into account the recommendations of the Commission under Article 344(1) and the report of the Committee under Article 344(4).

If the President finds the recommendations and report favorable, he may grant his sanction.

With the President's sanction, the amendment can then be introduced and debated in Parliament.

#### Example 3:

Scenario: Proposal to introduce English as the mandatory language for all legal documents in India.

Explanation: Suppose there is a proposal to make English the mandatory language for all legal documents across India. This proposal requires the President's prior sanction before it can be introduced in Parliament.

#### Process:

The proposal is drafted and sent to the President for approval.

The President reviews the proposal, considering the recommendations from the Commission under Article 344(1) and the report from the Committee under Article 344(4).

If the President agrees with the recommendations and the report, he grants his sanction.

The proposal can then be introduced in either House of Parliament for discussion and voting.

Example 4:

Scenario: Introduction of a Bill to use Sanskrit as an additional language in the Supreme Court.

Explanation: A group of MPs wants to introduce a Bill to allow Sanskrit to be used as an additional language in the Supreme Court. According to Article 349, they need the President's prior sanction.

Process:

The MPs draft the Bill and submit it to the President.

The President considers the recommendations of the Commission under Article 344(1) and the report of the Committee under Article 344(4).

If the President is satisfied, he grants his sanction.

The Bill can then be introduced in either House of Parliament for further legislative process.

## **CHAPTER IV: SPECIAL DIRECTIVES**

**Article 350: Language to be used in representations for redress of grievances.**

Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

### **Simplified act**

Every person has the right to submit a complaint or request for help to any officer or authority of the Union or a State. They can do this in any language that is used in the Union or the State.

## Explanation using Example

### Example 1:

Ravi, a resident of Tamil Nadu, faces an issue with the local municipal corporation regarding improper garbage disposal in his neighborhood. He decides to file a complaint to the municipal authorities. According to Article 350 of the Constitution of India, Ravi can submit his complaint in Tamil, the official language of Tamil Nadu, even though the municipal corporation also uses English for official purposes. The authorities are required to accept and address his complaint in Tamil.

### Example 2:

Asha, who lives in Maharashtra, has a grievance about the delay in her pension disbursement from a central government office located in Delhi. She is more comfortable writing in Marathi, the official language of Maharashtra. Under Article 350, Asha is entitled to submit her representation in Marathi to the central government office. The office must accept her representation in Marathi and take appropriate action to address her grievance.

## **Article 350A: Facilities for instruction in mother-tongue at primary stage.**

It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

## **Simplified act**

Every State and local authority should try to provide enough facilities for teaching children in their mother tongue at the primary education level, especially for those from linguistic minority groups. The President can give directions to any State to ensure these facilities are provided.

## Explanation using Example

### Example 1:

Ravi's family recently moved from Tamil Nadu to Maharashtra due to his father's job transfer. Ravi, who is in the 2nd grade, primarily speaks Tamil at home. According to Article 350A of the Constitution of India, the Maharashtra state government and local educational authorities should make efforts to



provide Ravi with the opportunity to receive his primary education in Tamil. This could mean setting up special classes or appointing Tamil-speaking teachers in the school Ravi attends.

Example 2:

In a small village in Karnataka, there is a significant population of Telugu-speaking families. The local school primarily offers instruction in Kannada, the state's official language. However, under Article 350A, the local educational authorities are required to provide adequate facilities for Telugu-speaking children to learn in their mother tongue at the primary stage. This could involve hiring Telugu-speaking teachers or creating bilingual educational materials to ensure these children receive education in their mother tongue.

#### **Article 350B: Special Officer for linguistic minorities.**

(1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.

#### **Simplified act**

(1) The President will appoint a Special Officer to look after the interests of people who speak different languages.

(2) This Special Officer's job is to check if the rights of these language groups are being protected as per the Constitution. The Officer will report their findings to the President regularly, as instructed by the President. The President will then share these reports with both Houses of Parliament and the State Governments involved.

Explanation using Example

Example 1:

Scenario: A Tamil-speaking community in Maharashtra feels that their linguistic rights are being ignored by the state government. They believe that there are not enough Tamil-medium schools and that official documents are not available in Tamil.

Application of Article 350B:

The Tamil-speaking community can file a complaint with the Special Officer for linguistic minorities.

The Special Officer will investigate the matter, examining whether the state government is providing adequate safeguards for the Tamil-speaking minority as per the Constitution.

The Special Officer will prepare a report detailing the findings and recommendations.

This report will be submitted to the President of India.

The President will then present the report to both Houses of Parliament and send it to the Maharashtra state government for necessary action.

Example 2:

Scenario: A Bengali-speaking community in Gujarat is concerned that their children are not receiving education in their mother tongue, and there are no cultural programs or government services available in Bengali.

Application of Article 350B:

The Bengali-speaking community can approach the Special Officer for linguistic minorities with their grievances.

The Special Officer will conduct an investigation to determine if the constitutional safeguards for the Bengali-speaking minority are being upheld.

After the investigation, the Special Officer will compile a report outlining the issues and suggesting measures to address them.

This report will be forwarded to the President of India.

The President will ensure that the report is laid before both Houses of Parliament and sent to the Gujarat state government for appropriate action.

**Article 351: Directive for development of the Hindi language.**

It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

### **Simplified act**

The Union (central government) has a responsibility to promote the Hindi language.

The goal is to develop Hindi so it can be used to express all parts of India's diverse culture.

The Union should enrich Hindi by incorporating elements from Hindustani and other Indian languages listed in the Eighth Schedule.

When needed, the Union should also add words to Hindi, mainly from Sanskrit and, if necessary, from other languages.

Explanation using Example

Example 1:

The Central Government decides to launch a nationwide educational program aimed at promoting the Hindi language in schools across India. This program includes the introduction of Hindi language courses in regions where Hindi is not the primary language spoken. The curriculum is designed to incorporate elements from various Indian languages listed in the Eighth Schedule, such as Tamil, Bengali, and Marathi, to enrich the Hindi language. Additionally, the program includes workshops for teachers to help them integrate Sanskrit vocabulary into their Hindi lessons, ensuring that the language evolves while respecting its traditional roots.

Example 2:

A government-funded cultural festival is organized to celebrate the diverse linguistic heritage of India. As part of this festival, there are special events and competitions focused on Hindi literature, poetry, and drama. These events encourage participants to use Hindi as a medium to express the composite culture of India, incorporating styles and expressions from other Indian

languages like Urdu, Punjabi, and Gujarati. The festival also features seminars on the historical development of Hindi, highlighting its assimilation of words and phrases from Sanskrit and other regional languages, thereby promoting a richer and more inclusive Hindi language.

## **PART XVIII: EMERGENCY PROVISIONS**

### **Article 352: Proclamation of Emergency.**

#### Emergency Provisions

(1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.

Explanation: A Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression or by armed rebellion may be made before the actual occurrence of war or of any such aggression or rebellion, if the President is satisfied that there is imminent danger thereof.

(2) A Proclamation issued under clause (1) may be varied or revoked by a subsequent Proclamation.

(3) The President shall not issue a Proclamation under clause (1) or a Proclamation varying such Proclamation unless the decision of the Union Cabinet (that is to say, the Council consisting of the Prime Minister and other Ministers of Cabinet rank appointed under article 75) that such a Proclamation may be issued has been communicated to him in writing.

(4) Every Proclamation issued under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People has been dissolved, or the dissolution of the House of the People takes place during the period of one month referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution

with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(5) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4):

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate under this clause:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days, a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People.

(6) For the purposes of clauses (4) and (5), a resolution may be passed by either House of Parliament only by a majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting.

(7) Notwithstanding anything contained in the foregoing clauses, the President shall revoke a Proclamation issued under clause (1) or a Proclamation varying such Proclamation if the House of the People passes a resolution disapproving, or, as the case may be, disapproving the continuance in force of, such Proclamation.

(8) Where a notice in writing signed by not less than one-tenth of the total number of members of the House of the People has been given, of their intention to move a resolution for disapproving, or, as the case may be, for

disapproving the continuance in force of, a Proclamation issued under clause (1) or a Proclamation varying such Proclamation, -

(a) to the Speaker, if the House is in session; or

(b) to the President, if the House is not in session,

a special sitting of the House shall be held within fourteen days from the date on which such notice is received by the Speaker, or, as the case may be, by the President, for the purpose of considering such resolution.

(9) The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds, being war or external aggression or armed rebellion or imminent danger of war or external aggression or armed rebellion, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

### **Simplified act**

#### Emergency Provisions

(1) If the President believes that there is a serious emergency that threatens the security of India or any part of it, whether due to war, external attack, or armed rebellion, he can declare an emergency for the whole country or a specific part of it.

Explanation: The President can declare an emergency even before an actual war, attack, or rebellion happens if he believes there is a serious risk of it happening soon.

(2) The President can change or cancel an emergency declaration by issuing another declaration.

(3) The President cannot declare an emergency or change an existing one unless the Union Cabinet (which includes the Prime Minister and other senior ministers) has given him a written decision to do so.

(4) Every emergency declaration must be presented to both Houses of Parliament. It will stop being effective after one month unless both Houses approve it before the month ends.

- If the House of the People (Lok Sabha) is dissolved or gets dissolved during this one-month period, and the Council of States (Rajya Sabha) has approved the declaration but the House of the People has not, the declaration will stop

being effective 30 days after the House of the People meets again, unless it is approved by the House of the People within those 30 days.

(5) Once approved, an emergency declaration will last for six months unless it is canceled.

- If both Houses of Parliament approve its continuation, it will last for another six months each time they approve it.

- If the House of the People is dissolved during this six-month period and the Council of States has approved the continuation but the House of the People has not, the declaration will stop being effective 30 days after the House of the People meets again, unless it is approved by the House of the People within those 30 days.

(6) For clauses (4) and (5), a resolution to approve or continue an emergency must be passed by a majority of the total members of each House and by at least two-thirds of the members present and voting.

(7) The President must cancel an emergency declaration if the House of the People passes a resolution disapproving it or its continuation.

(8) If at least one-tenth of the members of the House of the People give a written notice to move a resolution to disapprove an emergency declaration or its continuation:

- (a) to the Speaker, if the House is in session; or

- (b) to the President, if the House is not in session,

a special session of the House must be held within 14 days to consider the resolution.

(9) The President can issue different emergency declarations for different reasons (war, external attack, armed rebellion, or imminent danger of these) even if there is already an emergency declaration in effect.

Explanation using Example

Example 1:

Scenario: Imminent Threat of War

**Situation:** India receives credible intelligence reports indicating that a neighboring country is planning a large-scale military invasion. The threat is considered imminent, although no actual aggression has occurred yet.

**Application of Article 352:**

**President's Satisfaction:** The President, after consulting with the Union Cabinet, is satisfied that there is a grave emergency due to the imminent threat of war.

**Proclamation Issued:** The President issues a Proclamation of Emergency, declaring that the security of India is threatened by the imminent danger of war.

**Parliament Approval:** The Proclamation is laid before both Houses of Parliament. Within one month, both Houses pass resolutions approving the Proclamation.

**Duration:** The Proclamation remains in force for six months, unless revoked earlier or extended by further resolutions of Parliament.

**Impact on Citizens:**

**Government Powers:** The central government gains extensive powers to manage the emergency, including the ability to override state laws and direct state governments.

**Civil Liberties:** Certain fundamental rights, such as the right to move freely throughout the country or the right to assemble peacefully, may be restricted to ensure national security.

**Example 2:**

**Scenario:** Armed Rebellion in a State

**Situation:** A state in India experiences a severe armed rebellion, with insurgent groups taking control of several districts and threatening the stability of the region.

**Application of Article 352:**

**President's Satisfaction:** The President, based on the Union Cabinet's advice, is satisfied that the armed rebellion poses a grave threat to the security of the state and potentially the entire country.



**Proclamation Issued:** The President issues a Proclamation of Emergency, declaring that the security of the state is threatened by armed rebellion.

**Parliament Approval:** The Proclamation is laid before both Houses of Parliament. Within one month, both Houses pass resolutions approving the Proclamation.

**Duration:** The Proclamation remains in force for six months, unless revoked earlier or extended by further resolutions of Parliament.

**Impact on Citizens:**

**Government Powers:** The central government can deploy armed forces and take direct control of the state's administration to restore order.

**Civil Liberties:** Certain fundamental rights, such as the right to free speech or the right to assemble, may be restricted to prevent the spread of rebellion and maintain public order.

**Example 3:**

**Scenario:** External Aggression

**Situation:** A neighboring country launches a surprise attack on India's border regions, causing significant military and civilian casualties.

**Application of Article 352:**

**President's Satisfaction:** The President, after consulting with the Union Cabinet, is satisfied that the external aggression constitutes a grave emergency.

**Proclamation Issued:** The President issues a Proclamation of Emergency, declaring that the security of India is threatened by external aggression.

**Parliament Approval:** The Proclamation is laid before both Houses of Parliament. Within one month, both Houses pass resolutions approving the Proclamation.

**Duration:** The Proclamation remains in force for six months, unless revoked earlier or extended by further resolutions of Parliament.

**Impact on Citizens:**

Government Powers: The central government can take all necessary measures to repel the aggression, including mobilizing the armed forces and imposing curfews.

Civil Liberties: Certain fundamental rights, such as the right to privacy or the right to property, may be restricted to facilitate defense operations and ensure national security.

### **Article 353: Effect of Proclamation of Emergency.**

While a Proclamation of Emergency is in operation, then -

(a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List:

Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India, -

(i) the executive power of the Union to give directions under clause (a), and

(ii) the power of Parliament to make laws under clause (b),

shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.

### **Simplified act**

While an Emergency is declared and in effect, then -

(a) regardless of what is normally stated in the Constitution, the central government can give orders to any State on how to use its executive power;

(b) the Parliament can make laws about any subject, including giving powers and duties to the central government or its officers, even if that subject is not listed in the Union List:

However, if the Emergency is declared only in a specific part of India, -

(i) the central government can still give orders to any State under point (a), and

(ii) the Parliament can still make laws under point (b),

if the security of India or any part of it is threatened by activities in or related to the area where the Emergency is declared.

Explanation using Example

Example 1:

During a severe natural disaster, such as a massive earthquake in the state of Gujarat, the President of India declares a Proclamation of Emergency. Under Article 353(a), the central government can direct the Gujarat state government on how to manage the disaster relief operations, even if such directions override the state's usual executive powers. For instance, the Union government may instruct the state to prioritize certain areas for rescue operations or to allocate resources in a specific manner.

Example 2:

Suppose there is a terrorist attack in Jammu and Kashmir, and the President declares a Proclamation of Emergency in that region. Under Article 353(b), the Parliament can pass a law that imposes new duties on Union officers to enhance security measures, even if these duties are typically under the state's jurisdiction. For example, Parliament could enact a law requiring Union officers to take over local policing duties or to set up additional checkpoints, even though policing is usually a state matter.

Example 3:

Imagine a situation where there is a Proclamation of Emergency due to internal disturbances in the state of Assam. The central government, under Article 353(a), can direct the Assam state government to implement specific measures to restore order, such as imposing curfews or deploying additional security forces. Additionally, under Article 353(b), Parliament can pass laws that grant special powers to Union officers to manage the situation, such as authorizing them to conduct searches and seizures without a warrant.

#### Example 4:

Consider a scenario where a Proclamation of Emergency is declared in the state of West Bengal due to a severe outbreak of a contagious disease. The central government can direct the state government on how to handle the public health crisis, such as mandating quarantine zones or controlling the movement of people. Furthermore, Parliament can pass laws that give Union health officers the authority to enforce these measures, even if public health is typically a state subject.

#### **Article 354: Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.**

(1) The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

(2) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

#### **Simplified act**

(1) When there is an Emergency declared, the President can decide to change or pause certain rules (specifically from articles 268 to 279) for a certain time. This time cannot go beyond the end of the financial year in which the Emergency ends. The President can make these changes as he sees necessary.

(2) Any decision made by the President under the first point must be shown to both Houses of Parliament as soon as possible after it is made.

Explanation using Example

#### Example 1:

During a severe national crisis, such as a large-scale natural disaster or a war, the President of India declares a Proclamation of Emergency. The financial situation of the country becomes critical, and the central government needs to reallocate funds quickly to address the emergency.

The President issues an order under Article 354, modifying the provisions of Article 270, which deals with the distribution of taxes between the Union and the States. The order specifies that for the remainder of the financial year, a

larger share of the central taxes will be retained by the Union government to fund emergency relief efforts, rather than being distributed to the states as usual.

This order is then presented to both Houses of Parliament for their review and approval as soon as possible after it is issued.

Example 2:

Imagine a scenario where there is a sudden outbreak of a pandemic in India, leading to a nationwide health emergency. The President declares an Emergency under Article 352. To ensure that the central government has sufficient funds to manage the health crisis, the President issues an order under Article 354.

This order modifies the provisions of Article 275, which typically provides for grants-in-aid to certain states. The modification temporarily suspends these grants for the duration of the financial year, allowing the central government to redirect these funds towards purchasing medical supplies, setting up quarantine centers, and other urgent health measures.

The order is then laid before both the Lok Sabha and the Rajya Sabha for their consideration and approval as soon as possible after it is made.

**Article 355: Duty of the Union to protect States against external aggression and internal disturbance.**

It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution.

**Simplified act**

The Union (central government) must protect every State from attacks by other countries and from problems within the State.

The Union must also make sure that the government of each State follows the rules set out in the Constitution.

Explanation using Example

Example 1:

A neighboring country launches a military attack on the state of Punjab. The state government is unable to handle the situation on its own. Under Article 355, the Union Government steps in to deploy the Indian Army to protect Punjab from this external aggression. The Union also coordinates with international allies to ensure the state's security and sovereignty are maintained.

Example 2:

A large-scale riot breaks out in the state of Maharashtra due to communal tensions. The state police are overwhelmed and unable to control the internal disturbance. Invoking Article 355, the Union Government sends additional paramilitary forces to restore peace and order. The Union also works with the state government to implement measures that prevent such disturbances in the future, ensuring that the state's governance aligns with the Constitution.

**Article 356: Provisions in case of failure of constitutional machinery in States.**

Article

(1) If the President, on receipt of a report from the Governor \* \* \* of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation -

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor \* \* \* or any body or authority in the State other than the Legislature of the State;

(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of issue of the Proclamation:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People:

Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in the first proviso to this clause to "three years" shall be construed as a reference to five years.

(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless -

(a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

(b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned:

Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.

### **Simplified act**

#### Article

(1) If the President receives a report from the Governor of a State or gets information in some other way, and is convinced that the State Government cannot function according to the Constitution, the President can issue a Proclamation to:

(a) take over all or some of the functions of the State Government and the powers of the Governor or any other authority in the State, except the State Legislature;

(b) declare that the State Legislature's powers will be exercised by Parliament;

(c) make necessary or desirable provisions to implement the Proclamation, including suspending parts of the Constitution related to any State body or authority:

However, the President cannot take over the powers of a High Court or suspend any part of the Constitution related to High Courts.



(2) The President can cancel or change this Proclamation with another Proclamation.

(3) Every Proclamation must be presented to both Houses of Parliament and will stop working after two months unless both Houses approve it:

If the Proclamation is issued when the House of the People (Lok Sabha) is dissolved or dissolves within those two months, and the Council of States (Rajya Sabha) approves it but the House of the People does not, the Proclamation will stop working 30 days after the House of the People meets again unless it is approved by the House of the People within those 30 days.

(4) If approved, the Proclamation will stop working after six months unless it is revoked:

If both Houses of Parliament approve its continuation, it will continue for another six months, but it cannot last more than three years in total:

If the House of the People dissolves during any six-month period and the Council of States approves the continuation but the House of the People does not, the Proclamation will stop working 30 days after the House of the People meets again unless it is approved by the House of the People within those 30 days:

For the Proclamation issued on May 11, 1987, regarding Punjab, the three-year limit is extended to five years.

(5) Despite clause (4), a resolution to continue a Proclamation beyond one year from its issue date cannot be passed unless:

(a) there is an Emergency in effect in all or part of India or the State at the time of passing the resolution, and

(b) the Election Commission certifies that continuing the Proclamation is necessary due to difficulties in holding State Legislative Assembly elections:

This clause does not apply to the Proclamation issued on May 11, 1987, regarding Punjab.

Explanation using Example

Example 1:

Scenario: Political instability in the State of Maharashtra

**Situation:** The State of Maharashtra is experiencing severe political instability. The ruling coalition government has collapsed due to internal conflicts, and no party is able to form a stable government. The Governor of Maharashtra sends a report to the President of India stating that the government cannot be carried on in accordance with the provisions of the Constitution.

**Application of Article 356:**

**President's Proclamation:** The President, after receiving the Governor's report, is satisfied that the constitutional machinery in Maharashtra has failed. The President issues a Proclamation under Article 356.

**Assumption of Functions:** The President assumes all the functions of the Government of Maharashtra and the powers vested in the Governor.

**Legislative Powers:** The President declares that the powers of the Maharashtra Legislative Assembly shall be exercisable by the Parliament.

**Incidental Provisions:** The President makes necessary provisions to ensure the smooth administration of the state during this period.

**Outcome:** The Proclamation is laid before both Houses of Parliament. If approved within two months, it remains in force for six months, unless revoked earlier. The Proclamation can be extended for further periods of six months, but not beyond three years.

**Example 2:**

**Scenario:** Breakdown of law and order in the State of West Bengal

**Situation:** The State of West Bengal is facing a severe breakdown of law and order due to widespread riots and violence. The state government is unable to control the situation, and the Governor reports to the President that the government cannot function according to the Constitution.

**Application of Article 356:**

**President's Proclamation:** The President, upon receiving the Governor's report, is convinced that the constitutional machinery in West Bengal has failed. The President issues a Proclamation under Article 356.

**Assumption of Functions:** The President assumes all the functions of the Government of West Bengal and the powers vested in the Governor.

**Legislative Powers:** The President declares that the powers of the West Bengal Legislative Assembly shall be exercisable by the Parliament.

**Incidental Provisions:** The President makes necessary provisions to restore law and order and ensure the administration of the state.

**Outcome:** The Proclamation is laid before both Houses of Parliament. If approved within two months, it remains in force for six months, unless revoked earlier. The Proclamation can be extended for further periods of six months, but not beyond three years.

Example 3:

**Scenario:** Natural disaster in the State of Kerala

**Situation:** The State of Kerala is hit by a devastating natural disaster, such as a massive flood, which cripples the state administration. The state government is unable to function effectively, and the Governor reports to the President that the government cannot be carried on in accordance with the Constitution.

**Application of Article 356:**

**President's Proclamation:** The President, after receiving the Governor's report, is satisfied that the constitutional machinery in Kerala has failed. The President issues a Proclamation under Article 356.

**Assumption of Functions:** The President assumes all the functions of the Government of Kerala and the powers vested in the Governor.

**Legislative Powers:** The President declares that the powers of the Kerala Legislative Assembly shall be exercisable by the Parliament.

**Incidental Provisions:** The President makes necessary provisions to ensure the administration of the state and coordinate disaster relief efforts.

**Outcome:** The Proclamation is laid before both Houses of Parliament. If approved within two months, it remains in force for six months, unless revoked earlier. The Proclamation can be extended for further periods of six months, but not beyond three years.

**Article 357: Exercise of legislative powers under Proclamation issued under article 356.**

Article 356 - Proclamation

(1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent -

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;

(b) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (a), to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;

(c) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.

(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority.

### **Simplified act**

#### Article 356 - Proclamation

(1) When a Proclamation is issued under clause (1) of Article 356, declaring that the State Legislature's powers will be taken over by Parliament, the following can happen:

(a) Parliament can give the President the power to make laws for the State. The President can also pass on this power to someone else, under conditions he decides.

(b) Parliament, the President, or the person given the power to make laws can create laws that give responsibilities and powers to the Union (central government) or its officers.

(c) If the House of the People (Lok Sabha) is not in session, the President can approve spending from the State's funds until Parliament approves it.

(2) Any law made by Parliament, the President, or the person given the power to make laws (under clause (1)(a)) that they normally wouldn't be able to make, will continue to be valid even after the Proclamation ends. These laws will stay in effect until they are changed or canceled by a competent Legislature or authority.

### Explanation using Example

#### Example 1:

Scenario: The state of Maharashtra is experiencing severe political instability, and the Governor reports to the President of India that the state government cannot function according to the provisions of the Constitution.

#### Application of Article 356:

Proclamation Issued: The President issues a Proclamation under Article 356, declaring that the powers of the Maharashtra State Legislature will be exercised by the Parliament.

Parliament's Role: Parliament decides to confer the legislative powers of the Maharashtra State Legislature to the President.

Delegation of Powers: The President, using the authority given by Parliament, delegates these powers to the Governor of Maharashtra, subject to certain conditions.

Law Making: The Governor, now acting under the President's authority, enacts a law to address the political instability and ensure the state's administration continues smoothly.

Financial Authority: Since the Lok Sabha (House of the People) is not in session, the President authorizes expenditure from Maharashtra's Consolidated Fund to manage the state's urgent financial needs until Parliament can approve the expenditure.

#### Example 2:

Scenario: The state of West Bengal faces a natural disaster, and the state government is unable to manage the crisis effectively. The Governor reports this to the President, who then decides to take action under Article 356.

Application of Article 356:

Proclamation Issued: The President issues a Proclamation under Article 356, stating that the powers of the West Bengal State Legislature will be exercised by the Parliament.

Parliament's Role: Parliament confers the legislative powers of the West Bengal State Legislature to the President.

Delegation of Powers: The President delegates these powers to the Union Home Minister, who is tasked with managing the disaster response.

Law Making: The Union Home Minister, acting under the President's authority, enacts laws to facilitate disaster relief operations, such as requisitioning private property for emergency use and coordinating with central agencies.

Financial Authority: Since the Lok Sabha is not in session, the President authorizes immediate expenditure from West Bengal's Consolidated Fund to fund the disaster relief efforts, pending Parliament's approval.

Example 3:

Scenario: The state of Tamil Nadu is experiencing a breakdown of law and order, and the Governor reports that the state government cannot maintain peace and security.

Application of Article 356:

Proclamation Issued: The President issues a Proclamation under Article 356, declaring that the powers of the Tamil Nadu State Legislature will be exercised by the Parliament.

Parliament's Role: Parliament confers the legislative powers of the Tamil Nadu State Legislature to the President.

Delegation of Powers: The President delegates these powers to the Chief Secretary of Tamil Nadu, subject to specific conditions.

Law Making: The Chief Secretary, acting under the President's authority, enacts laws to restore law and order, such as imposing curfews and deploying additional police forces.

Financial Authority: Since the Lok Sabha is not in session, the President authorizes necessary expenditure from Tamil Nadu's Consolidated Fund to support the law enforcement activities, pending Parliament's approval.

#### Example 4:

Scenario: The state of Kerala is unable to pass its annual budget due to a political deadlock in the state legislature. The Governor reports this to the President.

Application of Article 356:

Proclamation Issued: The President issues a Proclamation under Article 356, stating that the powers of the Kerala State Legislature will be exercised by the Parliament.

Parliament's Role: Parliament confers the legislative powers of the Kerala State Legislature to the President.

Delegation of Powers: The President delegates these powers to the Finance Minister of India.

Law Making: The Finance Minister, acting under the President's authority, enacts a law to pass the annual budget for Kerala, ensuring that the state government has the necessary funds to operate.

Financial Authority: Since the Lok Sabha is not in session, the President authorizes expenditure from Kerala's Consolidated Fund to cover essential government functions until Parliament can approve the budget.

#### Example 5:

Scenario: The state of Uttar Pradesh is facing a severe health crisis due to a pandemic, and the state government is unable to manage the situation effectively. The Governor reports this to the President.

Application of Article 356:

Proclamation Issued: The President issues a Proclamation under Article 356, declaring that the powers of the Uttar Pradesh State Legislature will be exercised by the Parliament.

Parliament's Role: Parliament confers the legislative powers of the Uttar Pradesh State Legislature to the President.

Delegation of Powers: The President delegates these powers to the Union Health Minister.

Law Making: The Union Health Minister, acting under the President's authority, enacts laws to manage the health crisis, such as setting up quarantine zones and mobilizing medical resources.

Financial Authority: Since the Lok Sabha is not in session, the President authorizes expenditure from Uttar Pradesh's Consolidated Fund to support the health crisis management efforts, pending Parliament's approval.

**Article 358: Suspension of provisions of article 19 during emergencies.**

(1) While a Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:

Provided that where such Proclamation of Emergency is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.

(2) Nothing in clause (1) shall apply -

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.

**Simplified act**

(1) When there is an Emergency declared because India or any part of it is threatened by war or external attack, the government can make laws or take actions without being restricted by Article 19. These laws or actions are valid only while the Emergency is in effect. Once the Emergency ends, these laws or



actions will no longer be valid, except for things that were already done or not done before the Emergency ended:

If the Emergency is declared only in a specific part of India, the government can still make laws or take actions in other parts of India if the security of the whole country or any part of it is threatened by activities in the area where the Emergency is declared.

(2) The above rule does not apply:

(a) to any law that does not specifically mention that it is related to the Emergency when it is made; or

(b) to any action taken that is not under a law mentioning the Emergency.

Explanation using Example

Example 1:

During a period of war with a neighboring country, the President of India declares a Proclamation of Emergency. Under Article 358, the government decides to impose a temporary restriction on public gatherings and protests to ensure national security. Normally, such a restriction would violate the right to freedom of assembly under Article 19 of the Constitution. However, due to the emergency, the government is allowed to enforce this restriction without being challenged for violating Article 19. Once the emergency is lifted, the restriction on public gatherings will no longer be valid, but any actions taken during the emergency (such as arrests or fines) will remain lawful.

Example 2:

A part of a northeastern state in India is facing severe insurgency issues, and the President declares a Proclamation of Emergency specifically for that region. The government enacts a law that restricts the freedom of speech in that region to prevent the spread of insurgent propaganda. This law includes a recital stating that it is in relation to the Proclamation of Emergency. Under Article 358, this restriction is valid and cannot be challenged under Article 19. However, if the government tries to enforce a similar restriction in a neighboring state where the emergency is not declared, it would not be valid unless it can be shown that the security of the neighboring state is threatened by activities in the insurgency-affected region.

**Article 359: Suspension of the enforcement of the rights conferred by Part III during emergencies.**

(1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III (except articles 20 and 21) as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

(1A) While an order made under clause (1) mentioning any of the rights conferred by Part III (except articles 20 and 21) is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:

Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.

(1B) Nothing in clause (1A) shall apply:

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India:

Provided that where a Proclamation of Emergency is in operation only in a part of the territory of India, any such order shall not extend to any other part of the territory of India unless the President, being satisfied that the security of India or any part of the territory thereof is threatened by activities in or in relation to

the part of the territory of India in which the Proclamation of Emergency is in operation, considers such extension to be necessary.

(3) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

### **Simplified act**

(1) When an Emergency is declared, the President can issue an order that stops people from going to court to enforce certain rights listed in Part III of the Constitution (except for rights in articles 20 and 21). This suspension lasts as long as the Emergency is in effect or for a shorter time if specified in the order.

(1A) While the President's order is in effect, the government can make laws or take actions that would normally be restricted by the rights in Part III (except articles 20 and 21). However, once the order is no longer in effect, any such laws will stop being valid, except for actions already taken under those laws:

Provided that if the Emergency is only in part of India, these laws or actions can still be made or taken in other parts of India if the security of India or any part of it is threatened by activities in the area where the Emergency is declared.

(1B) The rule in (1A) does not apply:

(a) to any law that does not state it is related to the Emergency when it is made; or

(b) to any action taken that is not under a law stating it is related to the Emergency.

(2) The President's order can apply to all or part of India:

Provided that if the Emergency is only in part of India, the order cannot apply to other parts unless the President believes that the security of India or any part of it is threatened by activities in the area where the Emergency is declared.

(3) Every order made by the President must be presented to both Houses of Parliament as soon as possible after it is made.

Explanation using Example

Example 1:

During a severe national crisis, such as a large-scale terrorist attack, the President of India declares a Proclamation of Emergency. As a result, the President issues an order under Article 359, suspending the right to move any court for the enforcement of certain fundamental rights, such as the right to freedom of speech and expression (Article 19) and the right to assemble peacefully (Article 19). This suspension is in effect for the duration of the emergency.

In this scenario, a group of citizens who were planning to hold a peaceful protest against a government policy find that they cannot approach the court to enforce their right to assemble peacefully. The police, acting under the emergency provisions, disperse the gathering without any legal challenge from the citizens, as their right to seek judicial intervention is suspended.

#### Example 2:

A natural disaster of unprecedented scale hits a particular state in India, leading to widespread chaos and breakdown of law and order. The President declares a Proclamation of Emergency specific to that state. Under Article 359, the President suspends the enforcement of certain fundamental rights, except for Articles 20 and 21, which deal with protection in respect of conviction for offenses and protection of life and personal liberty, respectively.

The state government, taking advantage of the suspension, enacts a temporary law that restricts the movement of people to prevent looting and maintain order. A citizen who feels that this law infringes on their right to move freely within the territory of India (Article 19) cannot challenge this law in court during the emergency period. However, once the emergency is lifted, the law ceases to have effect, and the citizen can then seek legal recourse for any grievances that occurred during the emergency.

#### Example 3:

A neighboring country launches a sudden military attack on India, leading to a Proclamation of Emergency by the President. The President issues an order under Article 359, suspending the enforcement of certain fundamental rights, such as the right to form associations or unions (Article 19).

During this period, the government takes executive action to dissolve certain organizations that it believes are acting against national security interests. One such organization, which was planning to challenge the government's action in court, finds that it cannot do so because the right to seek judicial enforcement

of its fundamental rights is suspended. The organization must wait until the emergency is over to pursue any legal action.

Example 4:

A severe internal disturbance in a particular region of India leads to the President declaring a Proclamation of Emergency in that region. The President issues an order under Article 359, suspending the enforcement of certain fundamental rights, such as the right to privacy (Article 21).

The state government, citing security concerns, conducts widespread surveillance and searches without warrants. Affected citizens, who would normally challenge such actions as violations of their right to privacy, find that they cannot approach the courts during the emergency. Once the emergency is lifted, they can then seek legal remedies for any violations that occurred during the emergency period.

**Article 359A: Application of this Part to the State of Punjab: Omitted.**

Omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 3 (with effect from 6-1-1990).

**Simplified act**

Removed by the Constitution (Sixty-third Amendment) Act, 1989, section 3 (effective from January 6, 1990).

Explanation using Example

Example 1:

Ravi, a resident of Punjab, was curious about the emergency provisions in the Indian Constitution and how they applied to his state. He came across Article 359A, which mentioned its application to Punjab. However, upon further research, he discovered that Article 359A had been omitted by the Constitution (Sixty-third Amendment) Act, 1989, effective from January 6, 1990. This means that any special provisions or exceptions that might have applied to Punjab under Article 359A were no longer in effect after this date. Ravi realized that the emergency provisions in Part XVIII of the Constitution now applied uniformly across all states, including Punjab, without any special exceptions.

Example 2:

During a political science class, students were discussing the emergency provisions in the Indian Constitution. The professor mentioned that certain articles, like Article 359A, had specific applications to states like Punjab. One student, Priya, raised her hand and asked how Article 359A affected Punjab. The professor explained that Article 359A was omitted by the Constitution (Sixty-third Amendment) Act, 1989, which came into effect on January 6, 1990. This meant that any unique rules or conditions that Article 359A might have imposed on Punjab during an emergency were removed, and Punjab was now subject to the same emergency provisions as the rest of India. This helped the students understand that the Constitution evolves and changes over time, and certain provisions may be added or removed based on the needs of the country.

**Article 360: Provisions as to financial emergency.**

(1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

(2) A Proclamation issued under clause (1) -

(a) may be revoked or varied by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(3) During the period any such Proclamation as is mentioned in clause (1) is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be

specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in this Constitution -

(a) any such direction may include -

(i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(ii) a provision requiring all Money Bills or other Bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(b) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

### **Simplified act**

(1) If the President believes that India's financial stability or credit, or that of any part of the country, is in danger, he can make an official announcement declaring this situation.

(2) An announcement made under point (1) -

(a) can be canceled or changed by another announcement;

(b) must be presented to both Houses of Parliament;

(c) will stop being effective after two months unless both Houses of Parliament approve it before the two months are up:

If the announcement is made when the House of the People (Lok Sabha) is dissolved or gets dissolved within those two months, and if the Council of States (Rajya Sabha) approves it but the House of the People does not, the announcement will stop being effective 30 days after the House of the People meets again, unless the House of the People also approves it within those 30 days.

(3) While the announcement mentioned in point (1) is active, the central government can give orders to any State to follow certain financial rules and any other necessary instructions as decided by the President.

(4) Despite anything else in the Constitution -

(a) these orders can include -

(i) reducing the salaries and allowances of any group of people working for the State;

(ii) requiring all Money Bills or other Bills (as per article 207) to be sent to the President for approval after being passed by the State Legislature;

(b) the President can also order the reduction of salaries and allowances of any group of people working for the central government, including Judges of the Supreme Court and High Courts, while the announcement is active.

Explanation using Example

Example 1:

Scenario: Economic Crisis in a State

Situation: Imagine the state of Maharashtra is facing a severe economic crisis due to a natural disaster that has devastated its agricultural sector, leading to a significant drop in revenue and an increase in debt. The financial stability of the state is under threat, and it is unable to meet its financial obligations.

Application of Article 360:

Proclamation of Financial Emergency: The President of India, upon being satisfied that the financial stability of Maharashtra is threatened, issues a Proclamation declaring a financial emergency in the state.

Parliamentary Approval: This Proclamation is laid before both Houses of Parliament. If both Houses approve the Proclamation within two months, it continues to operate; otherwise, it ceases to operate.

Directions to the State: During the financial emergency, the Union government issues directions to Maharashtra to observe financial propriety. This may include measures such as:

Reducing the salaries and allowances of state government employees.



Requiring all Money Bills passed by the Maharashtra Legislature to be reserved for the President's consideration.

Union Government Measures: The President may also direct the reduction of salaries and allowances of Union government employees, including judges of the Supreme Court and High Courts, to manage the financial crisis.

Example 2:

Scenario: National Financial Instability

Situation: Suppose India faces a nationwide financial crisis due to a global economic downturn, leading to a significant drop in exports, a devaluation of the currency, and a severe impact on the banking sector. The financial stability and credit of the entire country are at risk.

Application of Article 360:

Proclamation of Financial Emergency: The President, upon being satisfied that the financial stability of India is threatened, issues a Proclamation declaring a financial emergency across the entire country.

Parliamentary Approval: This Proclamation is laid before both Houses of Parliament. If both Houses approve the Proclamation within two months, it continues to operate; otherwise, it ceases to operate.

Directions to States and Union: During the financial emergency, the Union government issues directions to all states to observe financial propriety. This may include measures such as:

Reducing the salaries and allowances of state government employees across all states.

Requiring all Money Bills passed by the state legislatures to be reserved for the President's consideration.

Union Government Measures: The President may also direct the reduction of salaries and allowances of Union government employees, including judges of the Supreme Court and High Courts, to manage the financial crisis.

These examples illustrate how Article 360 can be applied to address financial emergencies at both the state and national levels, ensuring financial stability and propriety during times of economic crisis.

## **ARTICLES**

## **PART XIX: MISCELLANEOUS**

### **Article 361: Protection of President and Governors and Rajpramukhs.**

#### Legal Provisions

(1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor \* \* \* of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor \* \* \* of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor \* \* \* of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor \* \* \* of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor \* \* \*, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

#### **Simplified act**

#### Legal Provisions

(1) The President or the Governor of a State cannot be taken to court for actions they take while doing their job:

However, the President's actions can be reviewed by a court, tribunal, or body appointed by either House of Parliament if there is a charge under article 61.

Also, this rule does not stop anyone from taking legal action against the Government of India or the Government of a State.

(2) No criminal cases can be started or continued against the President or the Governor of a State while they are in office.

(3) The President or the Governor of a State cannot be arrested or put in jail by any court while they are in office.

(4) No civil cases asking for relief against the President or the Governor of a State can be started while they are in office for actions they took in their personal capacity, whether before or after they took office, until two months after a written notice has been given to them. This notice must state the nature of the case, the reason for it, the name, description, and address of the person bringing the case, and the relief they are asking for.

Explanation using Example

Example 1:

Scenario: The President of India makes a controversial decision to deploy the military in a particular state to maintain law and order.

Application of Article 361:

Protection from Legal Action: The President cannot be taken to court for this decision. No court can question the President's decision or hold him accountable for the exercise of his powers.

Review by Parliament: However, if there is a serious allegation against the President regarding this decision, the conduct can be reviewed by a body appointed by either House of Parliament under Article 61.

Example 2:

Scenario: The Governor of a state signs an ordinance that is later challenged by a citizen claiming it violates their fundamental rights.

Application of Article 361:

Protection from Legal Action: The Governor cannot be sued in any court for signing the ordinance. The Governor is protected from any legal proceedings for actions taken in the exercise of his official duties.

Proceedings Against Government: The citizen can still bring a case against the State Government challenging the ordinance, but not directly against the Governor.

Example 3:

Scenario: A criminal case is filed against the Governor of a state for an alleged crime committed before taking office.

Application of Article 361:

Criminal Proceedings: No criminal proceedings can be initiated or continued against the Governor during his term of office. The case will have to wait until the Governor's term ends.

Example 4:

Scenario: A civil lawsuit is filed against the President for a personal business transaction that allegedly caused financial loss to another party before he took office.

Application of Article 361:

Civil Proceedings: The lawsuit cannot be initiated during the President's term of office. The plaintiff must wait until the President's term ends or provide a two-month notice in writing to the President, detailing the nature of the proceedings and the relief sought.

**Article 361A: Protection of publication of proceedings of Parliament and State Legislatures.**

(1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the

Legislative Assembly, or, as the case may be, either House of the Legislature, of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

Explanation. - In this article, "newspaper" includes a news agency report containing material for publication in a newspaper.

361B.

### **Simplified act**

(1) No one can be taken to court, either in a civil or criminal case, for publishing a mostly true report in a newspaper about what happens in either House of Parliament or the State Legislative Assembly, unless it can be shown that the report was published with bad intentions:

However, this rule does not apply to reports about secret meetings of either House of Parliament or the State Legislative Assembly.

(2) The rule in Clause (1) also applies to reports or information broadcasted on the radio or other wireless communication as part of any program or service from a broadcasting station, just like it applies to reports published in a newspaper.

Explanation. - In this article, "newspaper" also includes reports from news agencies that are meant to be published in a newspaper.

361B.

Explanation using Example

Example 1:

Scenario: A journalist writes an article in a newspaper about a heated debate that took place in the Lok Sabha (House of the People) regarding a new agricultural bill.

Application of Article 361A:

The journalist publishes a substantially true report of the proceedings.

A politician, feeling offended by the report, decides to sue the journalist for defamation.

Outcome:

Under Article 361A(1), the journalist is protected from civil or criminal proceedings because the report is a substantially true account of the parliamentary proceedings.

However, if the politician can prove that the report was published with malice, the protection would not apply.

Example 2:

Scenario: A news channel broadcasts a live session of the Rajya Sabha (Council of States) where members are discussing a controversial amendment to the education policy.

Application of Article 361A:

The broadcast is a true representation of the proceedings.

A viewer, disagreeing with the content, files a complaint against the news channel for spreading misinformation.

Outcome:

Under Article 361A(2), the news channel is protected from any legal proceedings because the broadcast is a true report of the legislative proceedings.

The protection does not apply if the broadcast was made with malice or if it involved a secret sitting of the House.

Example 3:

Scenario: A news agency publishes a report about a secret meeting held by the Legislative Assembly of a State to discuss national security issues.

Application of Article 361A:

The report is a true account of the secret meeting.

The government decides to take legal action against the news agency for breaching confidentiality.

Outcome:

The protection under Article 361A(1) does not apply because the report pertains to a secret sitting of the Legislative Assembly.

The news agency can be held liable for publishing the report of the secret proceedings.

**Article 361B: Disqualification for appointment on remunerative political post.**

A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for the duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation. - For the purposes of this article,-

(a) the expression "House" has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule ;

(b) the expression "remunerative political post" means any office-

(i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be ; or

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of State, and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.

**Simplified act**

If a member of a House (like Parliament or State Assembly) who belongs to a political party is disqualified under paragraph 2 of the Tenth Schedule, they cannot hold any paid political job for a certain period. This period starts from the date they are disqualified and lasts until either the end of their original term or the date they run for election again and win, whichever comes first.

Explanation: For this rule:

(a) "House" means what is defined in clause (a) of paragraph 1 of the Tenth Schedule.

(b) "Paid political job" means any position:

(i) under the Government of India or a State Government where the salary is paid from public funds; or

(ii) under any organization, whether it is a company or not, that is fully or partially owned by the Government of India or a State Government, and the salary is paid by that organization,

unless the salary is just a reimbursement for expenses.

Explanation using Example

Example 1:

Rajesh is a member of the Legislative Assembly (MLA) in the state of Maharashtra and belongs to the XYZ political party. Due to anti-defection laws under paragraph 2 of the Tenth Schedule, Rajesh is disqualified from being a member of the House because he voted against the party's official stance on a crucial bill. As a result of this disqualification, Rajesh is also disqualified from holding any remunerative political post, such as a ministerial position or a chairperson of a government-owned corporation, until the end of his original term as an MLA or until he contests and wins another election, whichever comes first.

Example 2:

Priya is a member of the Lok Sabha and belongs to the ABC political party. She is disqualified under paragraph 2 of the Tenth Schedule for defecting to another party. Consequently, Priya cannot be appointed to any remunerative political post, such as a cabinet minister or a head of a state-owned enterprise, where the salary is paid from public funds. This disqualification remains in effect until her original term in the Lok Sabha would have ended or until she contests and wins a new election to the House, whichever occurs earlier.

### **Article 362: Rights and privileges of Rulers of Indian States: Omitted.**

Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (with effect from 28-12-1971).



## Simplified act

Removed by the Constitution (Twenty-sixth Amendment) Act, 1971, section 2 (effective from December 28, 1971).

Explanation using Example

Example 1:

Before 1971, Maharaja Ranjit Singh, a ruler of a princely state in India, enjoyed certain privileges such as receiving a privy purse (a payment made to him by the government) and retaining his titles and properties. However, after the Constitution (Twenty-sixth Amendment) Act, 1971, Article 362 was omitted, which meant that these privileges were abolished. Maharaja Ranjit Singh no longer received the privy purse, and his titles were no longer recognized by the Indian government.

Example 2:

Imagine a scenario where Princess Aditi, the daughter of a former ruler of a princely state, was expecting to inherit certain privileges and financial benefits from the government based on her royal lineage. However, due to the omission of Article 362 by the Constitution (Twenty-sixth Amendment) Act, 1971, she finds out that these privileges no longer exist. As a result, Princess Aditi has to adapt to the same legal and financial framework as any other citizen of India, without any special treatment or financial support from the government.

### **Article 363: Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.**

Article

(1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, sanad or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect

of any right accruing under or any liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, sanad or other similar instrument.

(2) In this article -

(a) "Indian State" means any territory recognised before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(b) "Ruler" includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

### **Simplified act**

#### Article

(1) Despite what is written in this Constitution, but keeping in mind the rules in article 143, neither the Supreme Court nor any other court can handle disputes that come from any treaty, agreement, or similar document made before this Constitution started. This applies if the document was made by a ruler of an Indian State and involved the Government of India or its earlier versions, and if the document is still in effect after the Constitution started. This also includes any rights or responsibilities that come from such documents as mentioned in this Constitution.

(2) In this article -

(a) "Indian State" means any area that was recognized as a state by the British King or the Government of India before this Constitution started; and

(b) "Ruler" includes any Prince, Chief, or other person who was recognized as the ruler of an Indian State by the British King or the Government of India before this Constitution started.

#### Explanation using Example

##### Example 1:

Scenario: A dispute arises between the descendants of a former princely state ruler and the Indian government regarding the ownership of a palace that was part of a treaty signed before the Constitution of India came into effect.

Application of Article 363: The descendants approach the Supreme Court to resolve the dispute. However, under Article 363, the court does not have the jurisdiction to interfere in this matter because it pertains to a treaty executed before the commencement of the Constitution. The dispute must be resolved through other means, possibly through negotiation or arbitration, but not through the courts.

#### Example 2:

Scenario: A former princely state had an agreement with the British Government before India's independence, granting certain tax exemptions to the ruler's family. After the Constitution came into effect, the Indian government continues to honor this agreement. A dispute arises when the government decides to revoke these tax exemptions.

Application of Article 363: The ruler's family files a case in the High Court challenging the revocation of tax exemptions. However, the court dismisses the case citing Article 363, which bars judicial interference in disputes arising out of treaties or agreements made before the Constitution's commencement. The family must seek resolution outside the judicial system, possibly through political or administrative channels.

#### Example 3:

Scenario: An agreement was made before the Constitution between a princely state and the Government of the Dominion of India, allowing the state to maintain its own armed forces. After the Constitution came into effect, the Indian government decides to integrate these forces into the national army, leading to a dispute.

Application of Article 363: The princely state attempts to challenge this integration in the Supreme Court. However, the court refuses to hear the case under Article 363, as it involves a pre-Constitution agreement. The state must find an alternative resolution method, such as diplomatic negotiations with the central government.

#### Example 4:

Scenario: A sanad (a type of royal charter) was granted to a princely state by the British Crown before the Constitution, allowing the state certain privileges over forest resources. After the Constitution, the Indian government enacts a law that conflicts with these privileges, leading to a dispute.

Application of Article 363: The princely state challenges the new law in court, claiming it violates the pre-existing sanad. The court, however, dismisses the case under Article 363, which prevents judicial intervention in such disputes. The state must seek a resolution through legislative or executive means rather than through the judiciary.

**Article 363A: Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.**

Notwithstanding anything in this Constitution or in any law for the time being in force -

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as privy purse.

**Simplified act**

Despite anything in this Constitution or any current law -

(a) Any Prince, Chief, or other person who was recognized by the President as the Ruler of an Indian State before the Constitution (Twenty-sixth Amendment) Act, 1971, or anyone recognized as their successor, will no longer be recognized as a Ruler or successor from the time this amendment starts.

(b) From the start of the Constitution (Twenty-sixth Amendment) Act, 1971, the privy purse (a payment made to former rulers) is abolished. All rights, responsibilities, and obligations related to the privy purse are ended. Therefore, the Ruler, their successor, or any other person will not receive any payment as a privy purse.

Explanation using Example

Example 1:

Scenario: Maharaja Raj Singh was the ruler of a princely state in India before the country gained independence in 1947. After independence, he was recognized by the President of India as the ruler of his state and was entitled to receive a privy purse, a payment made to him by the government as part of the agreement for his state's accession to India.

Application of Article 363A: After the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, Maharaja Raj Singh ceases to be recognized as the ruler of his state. Consequently, he no longer receives the privy purse payments. All rights and obligations related to the privy purse are extinguished, meaning Maharaja Raj Singh cannot claim any further payments from the government under this arrangement.

#### Example 2:

Scenario: Princess Meera Devi was recognized as the successor to the ruler of a princely state by the President of India before the Constitution (Twenty-sixth Amendment) Act, 1971. She was set to inherit the title and the privy purse payments upon the death of her father, the current ruler.

Application of Article 363A: With the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, Princess Meera Devi is no longer recognized as the successor to the ruler. The privy purse payments that were supposed to be inherited by her are abolished. Therefore, she will not receive any sum as privy purse, and all rights and obligations related to the privy purse are extinguished.

#### Example 3:

Scenario: Nawab Ali Khan was the ruler of a princely state and was receiving a privy purse from the Indian government. His son, Prince Akbar Khan, was recognized as his successor by the President of India before the Constitution (Twenty-sixth Amendment) Act, 1971.

Application of Article 363A: After the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, Nawab Ali Khan ceases to be recognized as the ruler, and Prince Akbar Khan ceases to be recognized as the successor. Both Nawab Ali Khan and Prince Akbar Khan lose their entitlement to the privy purse. All rights, liabilities, and obligations related to the privy purse are extinguished, meaning neither Nawab Ali Khan nor Prince Akbar Khan can claim any further payments from the government.

#### Example 4:

Scenario: Maharani Lakshmi Devi was the ruler of a princely state and was receiving a privy purse. She had no recognized successor before the Constitution (Twenty-sixth Amendment) Act, 1971.

Application of Article 363A: With the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, Maharani Lakshmi Devi ceases to be recognized as the ruler of her state. The privy purse payments she was receiving are abolished, and all rights and obligations related to the privy purse are extinguished. Therefore, Maharani Lakshmi Devi will no longer receive any privy purse payments from the government.

#### **Article 364: Special provisions as to major ports and aerodromes.**

Article

(1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification

-

(a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article -

(a) "major port" means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(b) "aerodrome" means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

#### **Simplified act**

Article

(1) Despite what is written in this Constitution, the President can announce publicly that starting from a specific date mentioned in the announcement:

(a) Any law made by the national Parliament or by a State's Legislature will not apply to any major port or airport, or will apply with certain changes or exceptions mentioned in the announcement, or

(b) Any existing law will stop being effective in any major port or airport, except for actions taken or not taken before the specified date, or will apply to such port or airport with certain changes or exceptions mentioned in the announcement.

(2) In this article:

(a) "major port" means a port that has been declared a major port by any law made by Parliament or any existing law, and includes all areas currently within the limits of such port;

(b) "aerodrome" means an airport as defined in laws related to airways, aircraft, and air navigation.

Explanation using Example

Example 1:

The Indian government decides to enhance security measures at the Mumbai Port, which is a major port. The President issues a public notification stating that from January 1, 2024, the existing state law on labor regulations will not apply to Mumbai Port. Instead, a new set of labor regulations, specifically designed for major ports, will be enforced. This means that the labor laws applicable to workers at Mumbai Port will be different from those applicable to workers in other parts of Maharashtra.

Example 2:

The President issues a notification on March 1, 2023, stating that the existing environmental regulations of the state of Tamil Nadu will cease to apply to Chennai International Airport, which is an aerodrome. Instead, a modified version of the environmental regulations, tailored to the specific needs of aerodromes, will be implemented. This ensures that the airport can operate under a set of rules that consider its unique environmental impact, different from the general state regulations.

**Article 365: Effect of failure to comply with, or to give effect to, directions given by the Union.**

Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall 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 this Constitution.

### **Simplified act**

If a State does not follow or implement any instructions given by the central government as per the Constitution, the President can declare that the State's government is not functioning according to the Constitution.

Explanation using Example

Example 1:

The Union Government directs the State of Maharashtra to implement a specific national education policy aimed at standardizing the curriculum across the country. Despite repeated reminders, the State Government fails to implement the policy. The President, upon reviewing the situation, determines that the State Government's non-compliance is a violation of the Constitution. Consequently, the President declares that the State Government is unable to function according to the constitutional provisions, leading to the imposition of President's Rule in Maharashtra.

Example 2:

The Union Government issues a directive to the State of West Bengal to ensure the protection of a particular minority community following reports of widespread violence. The State Government, however, does not take adequate measures to protect the community, resulting in continued violence and unrest. The President, assessing the situation, concludes that the State Government's failure to act is a breach of constitutional duty. As a result, the President declares that the State Government cannot be carried on in accordance with the Constitution, and President's Rule is imposed in West Bengal.

### **Article 366: Definitions.**

In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say -



## **Simplified act**

In this Constitution, unless it clearly means something different, the following terms have the meanings given to them here:

Explanation using Example

Example 1:

Scenario: Understanding the term "State" in the context of the Constitution.

Explanation: Article 366 provides definitions for various terms used throughout the Constitution. For instance, the term "State" is defined to include not just the government and legislature of each state, but also all local or other authorities within the territory of India or under the control of the Government of India.

Practical Example: Suppose a citizen files a Public Interest Litigation (PIL) against a municipal corporation for not maintaining public parks. The term "State" as defined in Article 366 would include the municipal corporation, making it subject to the same constitutional obligations as the state government.

Example 2:

Scenario: Clarifying the term "Scheduled Castes" in legal proceedings.

Explanation: Article 366 also defines "Scheduled Castes" as those castes, races, or tribes or parts of or groups within such castes, races, or tribes which are deemed under Article 341 to be Scheduled Castes for the purposes of the Constitution.

Practical Example: If a person from a Scheduled Caste is denied admission to a government educational institution, they can invoke their rights under the Constitution. The definition provided in Article 366 ensures that there is no ambiguity about who qualifies as a member of a Scheduled Caste, thereby strengthening their case for seeking redressal under the law.

Part 1 of 2

(1) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) "article" means an article of this Constitution;

(4) "borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly;

(4A) \* \* \* \*

(5) "clause" means a clause of the article in which the expression occurs;

(6) "corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:

(a) that it is not chargeable in respect of agricultural income;

(b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(7) "corresponding Province", "corresponding Indian State" or "corresponding State" means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

(8) "debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

(9) "estate duty" means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the

duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

(10) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;

(12) "goods" includes all materials, commodities, and articles;

(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;

(13) "guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(14) "High Court" means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes:

(a) any Court in the territory of India constituted or reconstituted under this Constitution as a High Court, and

(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) "Indian State" means any territory which the Government of the Dominion of India recognised as such a State;

### **Simplified act**

(1) "agricultural income" means the income from farming as defined in the Indian income-tax laws;

(2) "an Anglo-Indian" means a person whose father or any male ancestor is or was of European descent, but who lives in India and was born in India to parents who usually live there and not just temporarily;

(3) "article" means a section of this Constitution;

(4) "borrow" includes raising money by giving annuities, and "loan" should be understood in the same way;

(4A) \* \* \* \*

(5) "clause" means a part of the article where the term is used;

(6) "corporation tax" means any tax on income that companies have to pay, provided:

(a) it is not charged on farming income;

(b) companies cannot deduct this tax from the dividends they pay to individuals;

(c) the tax paid by companies is not considered when calculating the total income of individuals for Indian income-tax purposes, or when calculating the Indian income-tax individuals owe or can get back;

(7) "corresponding Province", "corresponding Indian State" or "corresponding State" means the Province, Indian State, or State that the President decides is the equivalent for the specific purpose in question;

(8) "debt" includes any obligation to repay money through annuities and any obligation under a guarantee, and "debt charges" should be understood in the same way;

(9) "estate duty" means a tax assessed based on the value of all property that passes on death, as determined by rules set by Parliament or State Legislature laws;

(10) "existing law" means any law, order, rule, or regulation made before this Constitution started, by any authorized body or person;

(11) "Federal Court" means the Federal Court established under the Government of India Act, 1935;

(12) "goods" includes all materials, commodities, and items;

(12A) "goods and services tax" means any tax on the supply of goods or services, except for taxes on alcoholic drinks for human consumption;

(13) "guarantee" includes any obligation made before this Constitution started to make payments if the profits of a business fall below a certain amount;

(14) "High Court" means any Court considered a High Court for any State under this Constitution, and includes:

(a) any Court in India established or re-established as a High Court under this Constitution, and

(b) any other Court in India that Parliament declares by law to be a High Court for any purpose of this Constitution;

(15) "Indian State" means any territory recognized as a State by the Government of the Dominion of India;

Explanation using Example

Example 1:

Scenario: Ramesh owns a farm in Punjab and earns income from selling crops grown on his land. He is unsure whether this income is subject to income tax.

Application: According to Article 366(1) of the Constitution of India, "agricultural income" is defined as per the enactments relating to Indian income-tax. This means that Ramesh's income from selling crops is considered agricultural income and is exempt from income tax under the Income Tax Act, 1961.

Example 2:

Scenario: John is an Anglo-Indian whose father was of European descent but was born and has always lived in India. John is applying for a government job and needs to confirm his status as an Anglo-Indian.

Application: As per Article 366(2) of the Constitution of India, an Anglo-Indian is defined as a person whose father or any male ancestor in the male line is or was of European descent but who is domiciled in India and was born in India to parents who are habitually resident there. John meets these criteria and can confirm his status as an Anglo-Indian for his job application.

Example 3:

Scenario: A company in Mumbai wants to raise funds by issuing annuities and is unsure if this constitutes borrowing under the Constitution.

Application: According to Article 366(4) of the Constitution of India, "borrow" includes the raising of money by the grant of annuities. Therefore, the

company's action of issuing annuities to raise funds is considered borrowing under the Constitution.

#### Example 4:

Scenario: A taxpayer in Delhi receives dividends from a company and wants to know if the corporation tax paid by the company affects his personal income tax.

Application: Article 366(6) of the Constitution of India defines "corporation tax" and specifies that it is not chargeable in respect of agricultural income, and no deduction for the tax paid by companies is authorized from dividends payable to individuals. Therefore, the corporation tax paid by the company does not affect the taxpayer's personal income tax.

#### Example 5:

Scenario: A person in Karnataka inherits property from a deceased relative and needs to understand if estate duty applies.

Application: As per Article 366(9) of the Constitution of India, "estate duty" is a duty assessed on the principal value of all property passing upon death. If Karnataka has laws relating to estate duty, the person may be liable to pay estate duty on the inherited property based on its principal value.

#### Example 6:

Scenario: A business in Gujarat is involved in the supply of goods and services and wants to know if it is subject to Goods and Services Tax (GST).

Application: According to Article 366(12A) of the Constitution of India, "goods and services tax" means any tax on the supply of goods, services, or both, except taxes on the supply of alcoholic liquor for human consumption. Therefore, the business in Gujarat is subject to GST for its supply of goods and services.

#### Part 2 of 2

(16) "Part" means a Part of this Constitution;

(17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the

return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) "Proclamation of Emergency" means a Proclamation issued under clause (1) of article 352;

(19) "public notification" means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;

(20) "railway" does not include -

(a) a tramway wholly within a municipal area, or

(b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

(21) \* \* \*

(22) "Ruler" means the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such Ruler;

(23) "Schedule" means a Schedule to this Constitution;

(24) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

(26) "securities" includes stock;

(26A) "Services" means anything other than goods;

(26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;

(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be;

(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

(29A) "tax on the sale or purchase of goods" includes -

(a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;

(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;

(30) "Union territory" means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule.

### **Simplified act**

(16) "Part" means a section of this Constitution.



(17) "Pension" means any kind of retirement payment, whether you contributed to it or not. This includes regular retirement pay, a one-time payment, or any money returned from a savings fund, with or without interest.

(18) "Proclamation of Emergency" means an official announcement of an emergency as described in Article 352, clause (1).

(19) "Public notification" means an announcement published in the Gazette of India or the Official Gazette of a State.

(20) "Railway" does not include:

(a) a tramway entirely within a city area, or

(b) any other communication line entirely within one State that Parliament has declared not to be a railway.

(21) \* \* \*

(22) "Ruler" means the Prince, Chief, or other person who was recognized by the President as the ruler of an Indian State before the Constitution (Twenty-sixth Amendment) Act, 1971, or their recognized successor.

(23) "Schedule" means a list or table attached to this Constitution.

(24) "Scheduled Castes" means the castes, races, or tribes that are considered Scheduled Castes under Article 341 for the purposes of this Constitution.

(25) "Scheduled Tribes" means the tribes or tribal communities that are considered Scheduled Tribes under Article 342 for the purposes of this Constitution.

(26) "Securities" includes stocks.

(26A) "Services" means anything that is not goods.

(26B) "State" includes a Union territory with a Legislature when referring to Articles 246A, 268, 269, 269A, and 279A.

(26C) "Socially and educationally backward classes" means the backward classes identified under Article 342A for the Central Government, State, or Union territory.

(27) "Sub-clause" means a smaller section within a clause.

(28) "Taxation" includes any kind of tax, whether general, local, or special, and "tax" should be understood accordingly.

(29) "Tax on income" includes a tax similar to an excess profits tax.

(29A) "Tax on the sale or purchase of goods" includes:

(a) a tax on the transfer of property in goods for money or other valuable consideration, even if not through a contract;

(b) a tax on the transfer of property in goods involved in a works contract;

(c) a tax on the delivery of goods through hire-purchase or installment payments;

(d) a tax on the transfer of the right to use goods for any purpose for money or other valuable consideration;

(e) a tax on the supply of goods by an unincorporated association to its members for money or other valuable consideration;

(f) a tax on the supply of food or drink as part of a service for money or other valuable consideration, where such supply is considered a sale by the supplier and a purchase by the recipient.

(30) "Union territory" means any Union territory listed in the First Schedule and includes any other territory within India not listed in that Schedule.

Explanation using Example

Example 1:

Scenario: Mr. Sharma, a retired government employee, receives a monthly pension from the government. He also receives a lump sum gratuity and a return on his provident fund subscriptions.

Application of the Act: According to the definition in the Constitution of India, the term "pension" includes not only the monthly pension but also the gratuity and the provident fund returns. Therefore, all these payments to Mr. Sharma are considered part of his pension.

Example 2:

Scenario: The President of India issues a Proclamation of Emergency due to a severe internal disturbance in the country.

Application of the Act: The term "Proclamation of Emergency" as defined in the Constitution refers to a proclamation issued under Article 352(1). This means that the President's action is legally recognized as a Proclamation of Emergency under the Constitution.

#### Example 3:

Scenario: The Government of India publishes a new law in the Gazette of India.

Application of the Act: The term "public notification" means a notification in the Gazette of India. Therefore, the publication of the new law in the Gazette of India is considered a public notification.

#### Example 4:

Scenario: A tramway operates entirely within the municipal area of Mumbai.

Application of the Act: According to the definition of "railway" in the Constitution, a tramway wholly within a municipal area is not considered a railway. Therefore, the tramway in Mumbai is not classified as a railway under the Constitution.

#### Example 5:

Scenario: Mr. Singh belongs to a caste that is listed under Article 341 as a Scheduled Caste.

Application of the Act: The term "Scheduled Castes" refers to castes, races, or tribes deemed under Article 341 to be Scheduled Castes. Therefore, Mr. Singh's caste is recognized as a Scheduled Caste for the purposes of the Constitution.

#### Example 6:

Scenario: A company in Delhi supplies food to its employees as part of their service contract.

Application of the Act: Under the definition of "tax on the sale or purchase of goods," the supply of food as part of a service is considered a sale of goods. Therefore, the company may be liable to pay tax on the supply of food to its employees.

#### Example 7:

Scenario: The Government of India imposes a new tax on excess profits earned by companies.

Application of the Act: The term "tax on income" includes a tax in the nature of an excess profits tax. Therefore, the new tax on excess profits is considered a tax on income under the Constitution.

Example 8:

Scenario: A Union territory with a Legislature, such as Delhi, is involved in a legal matter concerning taxation under Article 246A.

Application of the Act: The term "State" with reference to Article 246A includes a Union territory with a Legislature. Therefore, Delhi is considered a State for the purposes of Article 246A.

Example 9:

Scenario: A tribal community in Jharkhand is listed under Article 342 as a Scheduled Tribe.

Application of the Act: The term "Scheduled Tribes" refers to tribes or tribal communities deemed under Article 342 to be Scheduled Tribes. Therefore, the tribal community in Jharkhand is recognized as a Scheduled Tribe for the purposes of the Constitution.

Example 10:

Scenario: The Government of India issues a notification in the Official Gazette of a State regarding a new policy.

Application of the Act: The term "public notification" also includes a notification in the Official Gazette of a State. Therefore, the notification issued in the State's Official Gazette is considered a public notification.

Example 7:

Scenario: A legal dispute arises in Tamil Nadu, and the parties involved need to know which court has jurisdiction as a High Court.

Application: Article 366(14) of the Constitution of India defines "High Court" and includes any court deemed to be a High Court for any state. The Madras High Court, being the High Court for Tamil Nadu, has jurisdiction over the legal dispute.

### **Article 367: Interpretation.**

(1) Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by, the Legislature of a State \* \* \*, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor \* \* \*, as the case may be.

(3) For the purposes of this Constitution "foreign State" means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.

(4) \* \* \* \*

### **Simplified act**

(1) Unless the situation requires something different, the General Clauses Act of 1897 will be used to interpret this Constitution, just like it is used to interpret laws made by the former government of India. This is subject to any changes made under article 372.

(2) Any mention in this Constitution of laws or acts made by Parliament or by a State Legislature should also be understood to include any Ordinance made by the President or a Governor, depending on the situation.

(3) In this Constitution, "foreign State" means any country other than India:

However, if Parliament makes a law about it, the President can declare by order that a certain country is not considered a foreign State for specific purposes mentioned in the order.

(4) [This section is intentionally left blank or has been omitted.]

Explanation using Example

Example 1:

Scenario: A new law is passed by the Parliament of India, and there is a need to interpret certain terms used in the law.

Application of Article 367(1): The General Clauses Act, 1897, will be used to interpret the terms in the new law. For instance, if the term "person" is used in the new law, the General Clauses Act defines "person" to include any company or association or body of individuals, whether incorporated or not. This definition will be applied unless the context of the new law requires a different interpretation.

#### Example 2:

Scenario: The President of India issues an Ordinance during a parliamentary recess to address an urgent matter.

Application of Article 367(2): The Ordinance issued by the President will be treated as if it were an Act of Parliament for the purposes of interpretation under the Constitution. For example, if the Ordinance includes provisions about taxation, those provisions will be interpreted in the same manner as if they were part of a regular Act passed by Parliament.

#### Example 3:

Scenario: A legal dispute arises involving a contract with a foreign company, and there is a need to determine whether the foreign company is from a "foreign State."

Application of Article 367(3): By default, any state other than India is considered a "foreign State." However, if the President has issued an order declaring that the foreign company's state is not to be considered a foreign state for specific purposes, that order will be taken into account. For instance, if the President has declared that a particular country is not a foreign state for trade purposes, the company from that country will not be treated as a foreign entity in trade-related legal matters.

#### Example 4:

Scenario: A Governor of a State issues an Ordinance to address a local emergency.

Application of Article 367(2): The Ordinance issued by the Governor will be treated as if it were an Act of the State Legislature for the purposes of interpretation under the Constitution. For example, if the Ordinance includes provisions about public health measures, those provisions will be interpreted in the same manner as if they were part of a regular Act passed by the State Legislature.

## **PART XX: AMENDMENT OF THE CONSTITUTION**

### **Article 368: Power of Parliament to amend the Constitution and procedure therefor.**

(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in -

- (a) article 54, article 55, article 73, article 162, article 241 or article 279A; or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI; or
- (c) any of the Lists in the Seventh Schedule; or
- (d) the representation of States in Parliament; or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of

addition, variation or repeal the provisions of this Constitution under this article.

### **Simplified act**

(1) Despite anything else in this Constitution, Parliament has the power to change any part of the Constitution by adding, changing, or removing parts, as long as they follow the rules in this article.

(2) To change the Constitution, a proposal (called a Bill) must be introduced in either the House of Parliament. The Bill must be approved by more than half of the total members of that House and by at least two-thirds of the members who are present and voting. Once both Houses approve the Bill, it goes to the President, who must agree to it. After the President agrees, the Constitution is changed according to the Bill.

However, if the change affects any of the following:

- (a) articles 54, 55, 73, 162, 241, or 279A; or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI; or
- (c) any of the Lists in the Seventh Schedule; or
- (d) the representation of States in Parliament; or
- (e) the rules in this article,

then the change must also be approved by at least half of the State Legislatures before it goes to the President.

(3) The rules in article 13 do not apply to any changes made under this article.

(4) No changes to the Constitution made under this article, including those in Part III, can be challenged in court for any reason, whether they were made before or after the start of section 55 of the Constitution (Forty-second Amendment) Act, 1976.

(5) To avoid any confusion, it is clearly stated that Parliament has unlimited power to change any part of the Constitution by adding, changing, or removing parts under this article.

Explanation using Example

Example 1:



Scenario: The Indian Parliament wants to introduce a new fundamental right related to digital privacy.

Process:

Introduction of Bill: A Bill proposing the new fundamental right is introduced in the Lok Sabha (House of the People).

Debate and Voting: The Bill is debated and voted upon. It receives the support of more than two-thirds of the members present and voting, and also a majority of the total membership of the Lok Sabha.

Rajya Sabha Approval: The Bill is then sent to the Rajya Sabha (Council of States), where it also receives the required majority.

Presidential Assent: The Bill is presented to the President of India, who gives his assent.

Constitution Amended: The Constitution is amended to include the new fundamental right related to digital privacy.

Example 2:

Scenario: The Indian Parliament wants to change the method of electing the President of India, which involves Article 54.

Process:

Introduction of Bill: A Bill proposing the change in the method of electing the President is introduced in the Lok Sabha.

Debate and Voting: The Bill is debated and voted upon. It receives the support of more than two-thirds of the members present and voting, and also a majority of the total membership of the Lok Sabha.

Rajya Sabha Approval: The Bill is then sent to the Rajya Sabha, where it also receives the required majority.

State Ratification: Since the amendment affects Article 54, it must be ratified by the Legislatures of not less than one-half of the States. The Bill is sent to the State Legislatures, and more than half of them pass resolutions ratifying the amendment.

Presidential Assent: The Bill is presented to the President of India, who gives his assent.

Constitution Amended: The Constitution is amended to change the method of electing the President.

#### Example 3:

Scenario: The Indian Parliament wants to repeal an outdated provision in the Constitution that is no longer relevant.

#### Process:

Introduction of Bill: A Bill proposing the repeal of the outdated provision is introduced in the Lok Sabha.

Debate and Voting: The Bill is debated and voted upon. It receives the support of more than two-thirds of the members present and voting, and also a majority of the total membership of the Lok Sabha.

Rajya Sabha Approval: The Bill is then sent to the Rajya Sabha, where it also receives the required majority.

Presidential Assent: The Bill is presented to the President of India, who gives his assent.

Constitution Amended: The outdated provision is repealed from the Constitution.

#### Example 4:

Scenario: The Indian Parliament wants to amend the Constitution to include a new provision for environmental protection.

#### Process:

Introduction of Bill: A Bill proposing the new provision for environmental protection is introduced in the Lok Sabha.

Debate and Voting: The Bill is debated and voted upon. It receives the support of more than two-thirds of the members present and voting, and also a majority of the total membership of the Lok Sabha.

Rajya Sabha Approval: The Bill is then sent to the Rajya Sabha, where it also receives the required majority.

Presidential Assent: The Bill is presented to the President of India, who gives his assent.

Constitution Amended: The Constitution is amended to include the new provision for environmental protection.

## **PART XXI: TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS**

### **Article 369: Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.**

Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or kapas), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;

(b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court,

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof.

### **Simplified act**

Even though the Constitution has its own rules, Parliament will have the power to make laws about certain things for five years from when the Constitution starts. These things will be treated as if they are listed in the Concurrent List, which means both the central and state governments can make laws about them. The specific things Parliament can make laws about are:

(a) Trade and business within a State, and the making, supplying, and distributing of:

Cotton and woollen textiles

Raw cotton (including both processed and unprocessed cotton)

Cotton seeds

Paper (including newsprint)

Food items (including edible oilseeds and oils)

Animal feed (including oil-cakes and other concentrates)

Coal (including coke and coal products)

Iron, steel, and mica

(b) Crimes related to the things mentioned in (a), the powers and responsibilities of all courts (except the Supreme Court) regarding these things, and any fees related to these things (but not fees taken in any court).

However, if Parliament makes a law that it normally wouldn't be allowed to make without this special rule, that law will stop being valid after the five-year period ends, except for actions that were already taken or not taken before the period ended.

Explanation using Example

Example 1:

Scenario: The Indian Parliament decides to regulate the production and distribution of cotton textiles within the state of Gujarat.

Explanation: Normally, the regulation of trade and commerce within a state falls under the State List, meaning only the state government would have the authority to make laws on this matter. However, under Article 369, for a period of five years from the commencement of the Constitution, Parliament has the power to make laws on this matter as if it were in the Concurrent List. This means that during this period, both the Parliament and the state government can make laws regarding the production and distribution of cotton textiles within Gujarat. If Parliament enacts a law regulating this, it will be valid even though it would normally be outside its jurisdiction.

Example 2:

Scenario: Parliament enacts a law to control the supply and distribution of coal in the state of Jharkhand.

Explanation: Coal is typically a matter that would fall under the State List, meaning Jharkhand would have the exclusive right to legislate on it. However, under Article 369, for the first five years after the Constitution commenced, Parliament has the authority to make laws regarding coal as if it were in the Concurrent List. This means that Parliament can enact laws to control the supply and distribution of coal in Jharkhand during this period. If such a law is enacted, it will be valid and enforceable, even though it would normally be beyond Parliament's legislative competence.

Example 3:

Scenario: A new law is passed by Parliament to regulate the production and distribution of edible oilseeds in the state of Maharashtra.

Explanation: Normally, the regulation of edible oilseeds would be a matter for the state government under the State List. However, Article 369 allows Parliament to legislate on this matter for the first five years after the Constitution's commencement as if it were in the Concurrent List. This means that Parliament can validly pass a law regulating the production and distribution of edible oilseeds in Maharashtra during this period. If Maharashtra also has a law on the same subject, both laws will coexist, and in case of any conflict, the central law will prevail.

Example 4:

Scenario: Parliament enacts a law specifying penalties for offenses related to the distribution of iron and steel in the state of Odisha.

Explanation: Offenses related to the distribution of iron and steel would typically be under the jurisdiction of the state government. However, under Article 369, for the first five years after the Constitution commenced, Parliament has the power to make laws regarding offenses related to the matters listed in clause (a), including iron and steel. This means that Parliament can enact a law specifying penalties for such offenses in Odisha, and this law will be valid during the specified period. The jurisdiction and powers of all courts, except the Supreme Court, regarding these offenses will also be governed by this law.

Example 5:

Scenario: After four years from the commencement of the Constitution, Parliament enacts a law regulating the production and distribution of paper in the state of West Bengal.

Explanation: Normally, the regulation of paper production and distribution would be a matter for the state government under the State List. However, under Article 369, for the first five years after the Constitution's commencement, Parliament has the authority to make laws on this matter as if it were in the Concurrent List. This means that Parliament can validly pass a law regulating the production and distribution of paper in West Bengal during this period. After the five-year period expires, the law will cease to have effect unless it pertains to actions taken or omitted before the expiration.

**Article 370: Temporary provisions with respect to the State of Jammu and Kashmir.**

Article Provisions

(1) Notwithstanding anything in this Constitution, -

(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to -

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation. - For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

(c) the provisions of article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State;

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification. Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

### **Simplified act**

#### Article Provisions

(1) Despite what is written in the Constitution, -

(a) Article 238 does not apply to the State of Jammu and Kashmir;

(b) Parliament's power to make laws for Jammu and Kashmir is limited to -

(i) matters in the Union List and the Concurrent List that the President, after consulting the State Government, declares to be similar to those in the Instrument of Accession (the agreement by which Jammu and Kashmir joined India);

(ii) other matters in these Lists that the President specifies with the agreement of the State Government.

Explanation. - For this article, the Government of the State means the person recognized by the President as the Maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers in office under the Maharaja's Proclamation dated March 5, 1948;

(c) Article 1 and this article apply to Jammu and Kashmir;

(d) Other parts of the Constitution apply to Jammu and Kashmir with exceptions and changes specified by the President:

Provided that any order related to matters in the Instrument of Accession (mentioned in (i) of (b)) must be made in consultation with the State Government;

Provided further that any order related to other matters must be made with the agreement of the State Government.

(2) If the State Government agrees to matters mentioned in (ii) of (b) or the second proviso of (d) before the Constituent Assembly (which is responsible for framing the State's Constitution) is formed, it must be presented to the Assembly for a decision.

(3) The recommendation of the State's Constituent Assembly is necessary before the President issues such a notification. Despite the previous rules, the President can declare by public notification that this article will stop being effective or will be effective with certain exceptions and changes from a specified date.

Explanation using Example

Example 1:

Scenario: The Indian Parliament wants to pass a new law regarding environmental protection that will apply to all states, including Jammu and Kashmir.

Application of Article 370:

Consultation with State Government: Before the law can be applied to Jammu and Kashmir, the President must consult with the Government of Jammu and Kashmir.

Concurrence Required: If the law pertains to matters not specified in the Instrument of Accession, the concurrence of the State Government is required.



Notification by President: Once the State Government concurs, the President can issue an order specifying that the law will apply to Jammu and Kashmir.

Outcome: The environmental protection law can only be applied to Jammu and Kashmir if the State Government agrees and the President issues a notification.

Example 2:

Scenario: The Indian Government wants to implement a new education policy across all states, including Jammu and Kashmir.

Application of Article 370:

Union List and Concurrent List: Education is a subject in the Concurrent List, so the Parliament can make laws on it.

Consultation with State Government: The President must consult with the Government of Jammu and Kashmir to determine if the new education policy corresponds to matters specified in the Instrument of Accession.

Concurrence Required: If the policy does not correspond to the Instrument of Accession, the concurrence of the State Government is required.

Constituent Assembly: If the concurrence is given before the Constituent Assembly of Jammu and Kashmir is convened, it must be placed before the Assembly for a decision.

Outcome: The new education policy can be implemented in Jammu and Kashmir only if it corresponds to the Instrument of Accession or if the State Government concurs and the Constituent Assembly approves it.

Example 3:

Scenario: The President of India wants to amend the application of a specific constitutional provision to Jammu and Kashmir.

Application of Article 370:

Exceptions and Modifications: The President can specify exceptions and modifications to the application of constitutional provisions to Jammu and Kashmir.

Consultation and Concurrence: If the modification relates to matters specified in the Instrument of Accession, consultation with the State Government is

required. For other matters, the concurrence of the State Government is necessary.

**Public Notification:** The President can issue a public notification declaring the modification, but it must be based on the recommendation of the Constituent Assembly of Jammu and Kashmir.

**Outcome:** The constitutional provision can be amended for Jammu and Kashmir only if the necessary consultation, concurrence, and recommendation processes are followed.

Example 4:

**Scenario:** The President of India decides to cease the operation of Article 370.

**Application of Article 370:**

**Public Notification:** The President can issue a public notification declaring that Article 370 shall cease to be operative or shall be operative with exceptions and modifications.

**Recommendation of Constituent Assembly:** The recommendation of the Constituent Assembly of Jammu and Kashmir is necessary before the President can issue such a notification.

**Outcome:** Article 370 can cease to be operative only if the Constituent Assembly of Jammu and Kashmir recommends it and the President issues a public notification.

### **Article 371: Special provision with respect to the States of Maharashtra and Gujarat.**

Maharashtra and Gujarat

(1) \* \* \* \* \*

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to the State of Maharashtra or Gujarat, provide for any special responsibility of the Governor for -

(a) the establishment of separate development boards for Vidarbha, Marathwada, and the rest of Maharashtra or, as the case may be, Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(c) \* \* \*

### **Simplified act**

Maharashtra and Gujarat

(1) \* \* \* \* \*

(2) Despite anything mentioned in the Constitution, the President can issue an order for the States of Maharashtra or Gujarat to ensure that the Governor has special responsibilities for:

(a) Setting up separate development boards for different regions within the states. For Maharashtra, these regions are Vidarbha, Marathwada, and the rest of Maharashtra. For Gujarat, these regions are Saurashtra, Kutch, and the rest of Gujarat. Each year, a report on how these boards are working must be presented to the State Legislative Assembly.

(b) Making sure that funds for development are fairly distributed across these regions, while considering the needs of the entire state.

(c) \* \* \*

Explanation using Example

Example 1:

Scenario: The Governor of Maharashtra receives multiple complaints from the residents of Vidarbha about the lack of infrastructure development in their region compared to other parts of the state.

Application of Article 371:

The President, using the powers granted under Article 371, issues an order directing the Governor of Maharashtra to establish a separate development board for Vidarbha.

The development board is tasked with planning and overseeing infrastructure projects specifically for Vidarbha.

Each year, the board must submit a report on its activities and progress to the Maharashtra State Legislative Assembly to ensure transparency and accountability.

Example 2:

Scenario: In Gujarat, the residents of Kutch feel that their region is not receiving a fair share of the state's developmental funds, leading to slower economic growth compared to other regions.

Application of Article 371:

The President, exercising the authority under Article 371, orders the Governor of Gujarat to create a separate development board for Kutch.

The board is responsible for ensuring that Kutch receives an equitable allocation of funds for developmental projects, taking into account the needs of the entire state.

The board's annual report on its activities and the allocation of funds is presented to the Gujarat State Legislative Assembly, allowing for legislative oversight and ensuring that the funds are used effectively for the development of Kutch.

**Article 371A: Special provision with respect to the State of Nagaland.**

(1) An equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.

Notwithstanding anything in this Constitution, -

(a) no Act of Parliament in respect of -

(i) religious or social practices of the Nagas,

(ii) Naga customary law and procedure,

(iii) administration of civil and criminal justice involving decisions according to Naga customary law,

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for -

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman ex officio of the regional council and the Vice-Chairman of the

regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;

(iv) the procedure and conduct of business of the regional council;

(v) the appointment of officers and staff of the regional council and their conditions of services; and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf, -

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal

or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e)

(i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

(f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;

(h) in article 170 -

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word "sixty", the word "forty-six" had been substituted;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

(3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

Explanation. - In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.

### **Simplified act**

(1) The State Government must ensure fair arrangements for technical education, vocational training, and job opportunities in all areas, considering the needs of the entire State.

Despite what the Constitution says:

(a) No law made by Parliament will apply to Nagaland regarding:

(i) Naga religious or social practices,

(ii) Naga customary laws and procedures,

(iii) Civil and criminal justice based on Naga customary law,

(iv) Ownership and transfer of land and its resources, unless the Nagaland Legislative Assembly agrees by passing a resolution.

(b) The Governor of Nagaland has special responsibility for law and order in Nagaland as long as there are internal disturbances in the Naga Hills-Tuensang Area. The Governor will consult the Council of Ministers but will make the final decision on what actions to take:

If there is a question about whether the Governor should act on his own judgment, the Governor's decision is final and cannot be questioned.

If the President believes the Governor no longer needs this special responsibility, he can order that the Governor's special responsibility ends from a specified date.

(c) When recommending any financial grant, the Governor must ensure that any money provided by the Government of India for a specific purpose is used for that purpose only.

(d) The Governor will establish a regional council for the Tuensang district with thirty-five members. The Governor will make rules about:

(i) How the regional council is formed and how its members are chosen:

The Deputy Commissioner of Tuensang will be the Chairman, and the Vice-Chairman will be elected by the council members.



- (ii) Qualifications for being a member of the regional council.
  - (iii) The term of office, salaries, and allowances for council members.
  - (iv) How the council will conduct its business.
  - (v) Appointment and conditions of service for the council's officers and staff.
  - (vi) Any other necessary rules for the council's proper functioning.
- (2) Despite what the Constitution says, for ten years from the formation of Nagaland, or longer if the Governor decides based on the regional council's recommendation:
- (a) The Governor will manage the administration of the Tuensang district.
  - (b) If the Government of India provides money to Nagaland, the Governor will fairly distribute it between Tuensang district and the rest of the State.
  - (c) No law made by the Nagaland Legislature will apply to Tuensang district unless the Governor, based on the regional council's recommendation, decides so. The Governor can also modify how the law applies to Tuensang:

Such directions can be made to apply retroactively.

- (d) The Governor can make regulations for the peace, progress, and good governance of Tuensang district, which can change or repeal existing laws if necessary.
- (e)
  - (i) One member representing Tuensang in the Nagaland Legislative Assembly will be appointed as Minister for Tuensang affairs by the Governor, based on the Chief Minister's advice, who will act on the majority recommendation of Tuensang members.
  - (ii) The Minister for Tuensang affairs will handle all matters related to Tuensang and report directly to the Governor but must keep the Chief Minister informed.
  - (f) The Governor will make the final decision on all matters related to Tuensang district.

(g) References to elected members of the Legislative Assembly in articles 54, 55, and clause (4) of article 80 will include members elected by the regional council.

(h) In article 170:

(i) The number "sixty" will be replaced with "forty-six" for the Nagaland Legislative Assembly.

(ii) Direct elections from territorial constituencies will include elections by the regional council members.

(iii) References to territorial constituencies will mean constituencies in Kohima and Mokokchung districts.

(3) If there are any difficulties in implementing these provisions, the President can make necessary orders to resolve them, but no such orders can be made after three years from the formation of Nagaland.

Explanation: In this article, Kohima, Mokokchung, and Tuensang districts have the same meanings as in the State of Nagaland Act, 1962.

Explanation using Example

Example 1:

Scenario: A new law is passed by the Indian Parliament that affects religious practices.

Application: The law will not automatically apply to Nagaland. For it to be applicable, the Legislative Assembly of Nagaland must pass a resolution agreeing to adopt the law. This ensures that the unique religious and social practices of the Nagas are preserved unless they choose otherwise.

Example 2:

Scenario: A dispute arises over the ownership of a piece of land in Nagaland.

Application: The dispute will be resolved according to Naga customary law, not the general Indian legal system. This means that traditional Naga practices and procedures will be followed in determining the rightful owner of the land.

Example 3:

Scenario: There is an internal disturbance in the Naga Hills-Tuensang Area.

Application: The Governor of Nagaland has special responsibility for maintaining law and order in this situation. The Governor can make decisions using his individual judgment after consulting the Council of Ministers. If the President of India decides that the special responsibility is no longer necessary, he can issue an order to that effect.

Example 4:

Scenario: The Government of India allocates funds for a specific project in Nagaland.

Application: The Governor of Nagaland must ensure that the funds are used for the intended project and not diverted to other purposes. This ensures transparency and proper utilization of resources.

Example 5:

Scenario: Establishment of a regional council in Tuensang district.

Application: The Governor will establish a regional council consisting of 35 members. The Deputy Commissioner of Tuensang will be the ex officio Chairman, and the Vice-Chairman will be elected by the council members. The Governor will also make rules regarding the council's composition, member qualifications, term of office, and other necessary matters.

Example 6:

Scenario: A new state law is passed by the Nagaland Legislative Assembly.

Application: This law will not apply to the Tuensang district unless the Governor, on the recommendation of the regional council, issues a public notification. The Governor can also specify modifications or exceptions to the law for its application in Tuensang.

Example 7:

Scenario: A member of the Legislative Assembly from Tuensang district is to be appointed as Minister for Tuensang affairs.

Application: The Governor will appoint the Minister for Tuensang affairs based on the advice of the Chief Minister, who will act on the recommendation of the majority of the members representing Tuensang. The Minister will have direct access to the Governor on matters related to Tuensang but must keep the Chief Minister informed.

Example 8:

Scenario: Difficulty arises in implementing the provisions of Article 371A.

Application: The President of India can issue an order to resolve the difficulty, including making necessary adaptations or modifications to other articles. However, this power is limited to three years from the formation of the State of Nagaland.

**Article 371B: Special provision with respect to the State of Assam.**

Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.

**Simplified act**

Even though the Constitution has its rules, the President can make an order for the State of Assam. This order can set up a special committee in the State's Legislative Assembly. This committee will include members elected from certain tribal areas listed in a specific part of the Sixth Schedule, and it can also include other members as decided by the order. The President's order can also change the rules of the Assembly to make sure this committee works properly.

Explanation using Example

Example 1:

Scenario: The President of India issues an order to address the unique needs of tribal areas in Assam.

Details: The President, recognizing the distinct cultural and administrative needs of the tribal areas in Assam, issues an order to form a special committee within the Assam Legislative Assembly. This committee is composed of members elected from the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule. Additionally, the President includes a few other members from the Assembly to ensure a balanced representation.

Outcome: This committee is tasked with addressing issues specific to the tribal areas, such as land rights, local governance, and cultural preservation. The rules of procedure of the Assam Legislative Assembly are modified to ensure the committee functions effectively, allowing for focused discussions and decisions on matters affecting the tribal regions.

Example 2:

Scenario: A new infrastructure project is proposed in a tribal area of Assam.

Details: A significant infrastructure project, such as the construction of a new highway, is proposed in a tribal area of Assam. Given the potential impact on the local tribal communities, the special committee formed under Article 371B is consulted. This committee, consisting of members elected from the tribal areas and additional Assembly members, reviews the project proposal.

Outcome: The committee evaluates the project's impact on the tribal community, considering factors like displacement, environmental effects, and cultural implications. Based on their findings, they make recommendations to the Assam Legislative Assembly, ensuring that the tribal community's interests are protected and that any development is carried out in a manner that respects their rights and traditions.

### **Article 371C: Special provision with respect to the State of Manipur.**

(1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

(2) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Explanation. - In this article, the expression "Hill Areas" means such areas as the President may, by order, declare to be Hill areas.

### **Simplified act**

(1) Despite anything else in this Constitution, the President can issue an order for the State of Manipur. This order can set up a committee within the State's Legislative Assembly. This committee will be made up of members elected from the Hill Areas of Manipur. The order can also change the rules for how the Government and the Legislative Assembly operate. Additionally, the Governor may have special responsibilities to ensure this committee works properly.

(2) Every year, or whenever the President asks, the Governor must report to the President about how the Hill Areas in Manipur are being managed. The central government can also give instructions to the State on how to manage these areas.

Explanation. - In this article, "Hill Areas" refers to areas that the President declares as Hill Areas by an order.

Explanation using Example

Example 1:

Scenario: Formation of a Hill Areas Committee

Situation: The President of India issues an order to form a special committee within the Legislative Assembly of Manipur. This committee is composed of members elected from the Hill Areas of Manipur.

Application: The committee is tasked with addressing specific issues related to the Hill Areas, such as infrastructure development, education, and healthcare. The rules of business for the Government of Manipur and the procedures of the Legislative Assembly are modified to ensure that the committee can function effectively. The Governor of Manipur has a special responsibility to oversee the proper functioning of this committee.

Outcome: The committee successfully identifies key areas needing development and proposes new policies. The Governor ensures these policies are implemented and reports the progress to the President annually.

Example 2:

Scenario: Presidential Direction for Administration of Hill Areas

Situation: The President of India receives a report from the Governor of Manipur indicating that the administration of the Hill Areas is facing significant challenges, such as lack of basic amenities and poor governance.

**Application:** Based on the report, the President issues specific directions to the State Government of Manipur to improve the administration of the Hill Areas. This may include directives to allocate more funds, improve law enforcement, or enhance public services in these regions.

**Outcome:** The State Government of Manipur follows the President's directions, leading to improved infrastructure, better law and order, and enhanced public services in the Hill Areas. The Governor continues to monitor the situation and provides regular updates to the President.

### Example 3:

**Scenario:** Declaration of New Hill Areas

**Situation:** A new region in Manipur is identified as having similar characteristics and challenges as the existing Hill Areas but has not been officially recognized as such.

**Application:** The President, upon recommendation from the Governor and after thorough evaluation, issues an order declaring this new region as part of the Hill Areas. This declaration allows the region to benefit from the special provisions and protections under Article 371C.

**Outcome:** The newly declared Hill Area receives focused attention from the Hill Areas Committee, leading to targeted development projects and better governance. The residents of this region experience improved living conditions and greater representation in the Legislative Assembly.

### Example 4:

**Scenario:** Annual Report by the Governor

**Situation:** The Governor of Manipur prepares an annual report detailing the administration and development activities in the Hill Areas.

**Application:** The report highlights the progress made, challenges faced, and future plans for the Hill Areas. It is submitted to the President, who reviews the report and may provide further directions to ensure continued development and proper administration.

**Outcome:** The President's review and subsequent directions help address any ongoing issues and ensure that the Hill Areas continue to receive the necessary support and resources for their development. The annual reporting mechanism

ensures accountability and continuous improvement in the administration of the Hill Areas.

**Article 371D: Special provisions with respect to the State of Andhra Pradesh or the State of Telangana.**

(1) The President may by order made with respect to the State of Andhra Pradesh or the State of Telangana, provide, having regard to the requirement of each State, for equitable opportunities and facilities for the people belonging to different parts of such State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the States.

(2) An order made under clause (1) may, in particular, -

(a) require the State Government to organise any class or classes of posts in a civil service of, or any class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organised;

(b) specify any part or parts of the State which shall be regarded as the local area -

(i) for direct recruitment to posts in any local cadre (whether organised in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which, preference or reservation shall be given or made -

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order;

(ii) in the matter of admission to any such University or other educational institution referred to in sub-clause (b) as may be specified in this behalf in the order, to or in favour of candidates who have resided or studied for any period



specified in the order in the local area in respect of such cadre, University or other educational institution, as the case may be.

(3) The President may, by order, provide for the constitution of an Administrative Tribunal for the State of Andhra Pradesh and for the State of Telangana to exercise such jurisdiction, powers and authority including any jurisdiction, power and authority which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority as may be specified in the order with respect to the following matters, namely: -

(a) appointment, allotment or promotion to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(b) seniority of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(c) such other conditions of service of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State or to such class or classes of civil posts under the State or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order.

(4) An order made under clause (3) may -

(a) authorise the Administrative Tribunal to receive representations for the redress of grievances relating to any matter within its jurisdiction as the President may specify in the order and to make such orders thereon as the Administrative Tribunal deems fit;

(b) contain such provisions with respect to the powers and authorities and procedure of the Administrative Tribunal (including provisions with respect to the powers of the Administrative Tribunal to punish for contempt of itself) as the President may deem necessary;

(c) provide for the transfer to the Administrative Tribunal of such classes of proceedings, being proceedings relating to matters within its jurisdiction and pending before any court (other than the Supreme Court) or tribunal or other

authority immediately before the commencement of such order, as may be specified in the order;

(d) contain such supplemental, incidental and consequential provisions (including provisions as to fees and as to limitation, evidence or for the application of any law for the time being in force subject to any exceptions or modifications) as the President may deem necessary.

(5) The Order of the Administrative Tribunal finally disposing of any case shall become effective upon its confirmation by the State Government or on the expiry of three months from the date on which the order is made, whichever is earlier:

Provided that the State Government may, by special order made in writing and for reasons to be specified therein, modify or annul any order of the Administrative Tribunal before it becomes effective and in such a case, the order of the Administrative Tribunal shall have effect only in such modified form or be of no effect, as the case may be.

(6) Every special order made by the State Government under the proviso to clause (5) shall be laid, as soon as may be after it is made, before both Houses of the State Legislature.

(7) The High Court for the State shall not have any powers of superintendence over the Administrative Tribunal and no court (other than the Supreme Court) or tribunal shall exercise any jurisdiction, power or authority in respect of any matter subject to the jurisdiction, power or authority of, or in relation to, the Administrative Tribunal.

(8) If the President is satisfied that the continued existence of the Administrative Tribunal is not necessary, the President may by order abolish the Administrative Tribunal and make such provisions in such order as he may deem fit for the transfer and disposal of cases pending before the Tribunal immediately before such abolition.

(9) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, -

(a) no appointment, posting, promotion or transfer of any person -

(i) made before the 1st day of November, 1956, to any post under the Government of, or any local authority within, the State of Hyderabad as it existed before that date; or

(ii) made before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to any post under the Government of, or any local or other authority within, the State of Andhra Pradesh; and

(b) no action taken or thing done by or before any person referred to in sub-clause (a), shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that the appointment, posting, promotion or transfer of such person was not made in accordance with any law, then in force, providing for any requirement as to residence within the State of Hyderabad or, as the case may be, within any part of the State of Andhra Pradesh, in respect of such appointment, posting, promotion or transfer.

(10) The provisions of this article and of any order made by the President thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

### **Simplified act**

(1) The President can make rules for the states of Andhra Pradesh and Telangana to ensure fair opportunities for people from different parts of these states in terms of government jobs and education. Different rules can be made for different areas within these states.

(2) These rules can include:

(a) Requiring the state government to create different groups of government jobs for different areas and assign people to these groups based on certain principles.

(b) Defining specific areas within the state for:

(i) Hiring people directly for government jobs in those areas.

(ii) Hiring people directly for jobs under local authorities in those areas.

(iii) Admission to universities or other educational institutions controlled by the state government in those areas.

(c) Specifying how and to what extent preferences or reservations should be given:

(i) For direct hiring to jobs mentioned in (b).

(ii) For admission to universities or educational institutions mentioned in (b), favoring candidates who have lived or studied in those areas for a specified period.

(3) The President can also set up an Administrative Tribunal for Andhra Pradesh and Telangana to handle matters like:

(a) Appointments, assignments, or promotions to certain government jobs or jobs under local authorities.

(b) Determining the seniority of people in these jobs.

(c) Other service conditions for people in these jobs.

(4) The rules for the Administrative Tribunal can:

(a) Allow it to hear complaints and make decisions on matters within its authority.

(b) Define its powers and procedures, including the power to punish for contempt.

(c) Transfer ongoing cases from other courts or tribunals to the Administrative Tribunal.

(d) Include additional necessary provisions, such as fees, evidence rules, or modifications to existing laws.

(5) Decisions made by the Administrative Tribunal will take effect once confirmed by the state government or after three months, whichever comes first. However, the state government can modify or cancel these decisions before they take effect.

(6) Any special orders made by the state government to modify or cancel Tribunal decisions must be presented to both houses of the state legislature as soon as possible.

(7) The High Court of the state cannot oversee the Administrative Tribunal, and no other court or tribunal (except the Supreme Court) can interfere with its matters.

(8) If the President decides the Administrative Tribunal is no longer needed, it can be abolished, and provisions will be made for handling pending cases.

(9) Regardless of any court decisions:

(a) No appointment, posting, promotion, or transfer of any person:

(i) Made before November 1, 1956, to any post under the Government of Hyderabad or its local authorities.

(ii) Made before the 1973 Constitutional Amendment to any post under the Government of Andhra Pradesh or its local authorities.

(b) No actions taken by these persons will be considered illegal just because they did not meet residency requirements at the time.

(10) These rules and any orders made by the President will override any other laws or constitutional provisions.

Explanation using Example

Example 1:

Scenario: Public Employment in Andhra Pradesh

Ravi, a resident of Visakhapatnam, Andhra Pradesh, applies for a government job in the state. The state government, under the provisions of Article 371D, has organized civil service posts into local cadres. This means that certain government jobs are reserved for residents of specific regions within the state.

Application:

Ravi applies for a job that is part of the Visakhapatnam local cadre.

The recruitment process gives preference to candidates who have resided or studied in Visakhapatnam for a specified period.

Ravi, having lived in Visakhapatnam all his life, benefits from this provision and secures the job over candidates from other regions.

Example 2:

Scenario: Admission to Universities in Telangana

Sita, a student from Warangal, Telangana, is seeking admission to a state-controlled university in Hyderabad. The state government, under Article 371D, has specified local areas for university admissions, giving preference to students from those areas.

Application:

The university in Hyderabad has a certain number of seats reserved for students from the Hyderabad local area.

However, there are also seats reserved for students from other local areas within Telangana, including Warangal.

Sita applies for admission under the Warangal local area quota.

Due to the reservation policy, Sita has a higher chance of securing admission compared to students from non-reserved areas.

Example 3:

Scenario: Administrative Tribunal in Andhra Pradesh

Anil, a government employee in Andhra Pradesh, has a grievance regarding his promotion. He believes that his seniority was not correctly considered. Under Article 371D, an Administrative Tribunal has been constituted to handle such matters.

Application:

Anil files a representation with the Administrative Tribunal.

The Tribunal reviews his case and finds that there was indeed an error in considering his seniority.

The Tribunal orders the correction of Anil's seniority and directs the state government to promote him accordingly.

The state government confirms the Tribunal's order, and Anil receives his promotion.

Example 4:

Scenario: Abolition of Administrative Tribunal

The President of India, after reviewing the necessity of the Administrative Tribunal in Telangana, decides that it is no longer required.

Application:

The President issues an order abolishing the Administrative Tribunal.

The order includes provisions for transferring pending cases to appropriate courts or authorities.

All cases that were pending before the Tribunal are now transferred to the High Court of Telangana for resolution.

Example 5:

Scenario: Historical Appointments in Hyderabad

Before the reorganization of states in 1956, several government employees were appointed in the State of Hyderabad. Post-reorganization, these employees are now part of the Andhra Pradesh government.

Application:

Some of these employees' appointments were questioned on the grounds that they did not meet the residence requirements of the then State of Hyderabad.

Article 371D(9) ensures that these appointments are not deemed illegal or void solely based on residence requirements.

This provision protects the jobs and actions taken by these employees, ensuring continuity and stability in public administration.

### **Article 371E: Establishment of Central University in Andhra Pradesh.**

Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh.

### **Simplified act**

The Parliament can create a law to set up a University in the State of Andhra Pradesh.

Explanation using Example

Example 1:

The Parliament of India decides to establish a new Central University in the state of Andhra Pradesh to promote higher education and research. They pass a law called the "Central University of Andhra Pradesh Act, 2023." This law outlines the structure, governance, and funding of the new university. As a result, the Central University of Andhra Pradesh is established in the city of Visakhapatnam, offering various undergraduate, postgraduate, and doctoral programs.

Example 2:

A group of education activists in Andhra Pradesh petitions the Parliament to address the lack of higher education institutions in the state. Responding to this demand, the Parliament enacts legislation to create a Central University in the state. The new university is set up in the town of Tirupati, known for its educational and cultural heritage. The university aims to provide quality education and research opportunities to students from diverse backgrounds, thereby enhancing the educational landscape of Andhra Pradesh.

**Article 371F: Special provisions with respect to the State of Sikkim.**

Notwithstanding anything in this Constitution, -

(a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

(b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day) -

(i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;

(ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and

(iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

(c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of five years, in clause (1) of article 172 shall be construed as references to a period of four years and the said period of four years shall be deemed to commence from the appointed day;

(d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;



(e) the representative of the State of Sikkim in the House of the People in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

(g) the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;

(h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;

(i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;

(j) all courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;

(k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;

(l) for the purpose of facilitating the application of any such law as is referred to in clause (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution, the President may, within two years from the

appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law;

(m) neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;

(n) the President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification;

(o) if any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order, do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day;

(p) all things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.

### **Simplified act**

Despite anything else in this Constitution, -

(a) The Legislative Assembly of the State of Sikkim must have at least thirty members.

(b) Starting from the date when the Constitution (Thirty-sixth Amendment) Act, 1975 begins (called the appointed day) -

- (i) The Assembly for Sikkim, formed from the elections held in April 1974 with thirty-two elected members (called the sitting members), will be considered the official Legislative Assembly of Sikkim under this Constitution.
- (ii) The sitting members will be considered as officially elected members of the Legislative Assembly of Sikkim under this Constitution.
- (iii) This Legislative Assembly of Sikkim will have the same powers and duties as any other State Legislative Assembly under this Constitution.
- (c) For the Assembly considered as the Legislative Assembly of Sikkim under clause (b), the usual five-year term mentioned in article 172 will be considered as four years, starting from the appointed day.
- (d) Until Parliament decides otherwise, Sikkim will have one seat in the House of the People (Lok Sabha) and will be one parliamentary constituency called the parliamentary constituency for Sikkim.
- (e) The representative of Sikkim in the House of the People on the appointed day will be elected by the members of the Legislative Assembly of Sikkim.
- (f) Parliament can make rules to protect the rights and interests of different groups in Sikkim, including deciding the number of seats in the Legislative Assembly for these groups and the areas from which they can be elected.
- (g) The Governor of Sikkim has a special responsibility to maintain peace and ensure fair social and economic progress for different groups in Sikkim. The Governor will act according to directions from the President.
- (h) All property and assets that belonged to the Government of Sikkim before the appointed day will now belong to the Government of the State of Sikkim.
- (i) The High Court functioning before the appointed day in Sikkim will be considered the High Court for the State of Sikkim from the appointed day.
- (j) All courts and officials in Sikkim will continue to perform their duties from the appointed day, according to this Constitution.
- (k) All laws in force in Sikkim before the appointed day will continue to be in force until changed or repealed by a competent authority.
- (l) To make these laws fit with this Constitution, the President can make changes to them within two years from the appointed day. These changes cannot be questioned in any court.

(m) The Supreme Court or any other court cannot handle disputes or matters related to any treaty or agreement about Sikkim made before the appointed day, involving the Government of India or its predecessors. However, this does not affect article 143.

(n) The President can extend any law in force in any State in India to Sikkim, with any changes he thinks necessary.

(o) If there are any difficulties in implementing these provisions, the President can make necessary changes to remove those difficulties, but only within two years from the appointed day.

(p) All actions taken in Sikkim from the appointed day until the Constitution (Thirty-sixth Amendment) Act, 1975 is approved by the President will be considered valid if they conform to the amended Constitution.

Explanation using Example

Example 1:

Scenario: Formation of the Legislative Assembly in Sikkim

Situation: After Sikkim became a part of India in 1975, the state needed to form its Legislative Assembly as per the Indian Constitution.

Application of Article 371F:

Clause (a): The Legislative Assembly of Sikkim must have at least 30 members.

Clause (b): The Assembly formed from the 1974 elections with 32 members is recognized as the official Legislative Assembly of Sikkim.

Clause (c): The term of this Assembly is set to four years starting from the date Sikkim joined India.

Outcome: The 32 members elected in 1974 automatically became the members of the Legislative Assembly of Sikkim, and their term was set for four years from the date Sikkim joined India.

Example 2:

Scenario: Representation of Sikkim in the Indian Parliament

Situation: After Sikkim's integration into India, it needed representation in the Lok Sabha (House of the People).

Application of Article 371F:

Clause (d): Sikkim is allotted one seat in the Lok Sabha.

Clause (e): The representative for this seat is elected by the members of the Sikkim Legislative Assembly.

Outcome: Sikkim gets one seat in the Lok Sabha, and the representative for this seat is chosen by the members of the Sikkim Legislative Assembly.

Example 3:

Scenario: Protection of Rights and Interests of Sikkim's Population

Situation: Ensuring the social and economic advancement of different sections of Sikkim's population.

Application of Article 371F:

Clause (f): Parliament can make provisions for the number of seats in the Sikkim Legislative Assembly to be filled by candidates from different sections of the population.

Clause (g): The Governor of Sikkim has a special responsibility to ensure peace and equitable social and economic advancement of different sections of the population.

Outcome: Parliament can reserve seats in the Sikkim Legislative Assembly for specific sections of the population, and the Governor has the authority to ensure these sections are adequately represented and their interests protected.

Example 4:

Scenario: Continuation of Existing Laws and Courts

Situation: After Sikkim's integration, there is a need to continue the existing legal and judicial systems until new provisions are made.

Application of Article 371F:

Clause (i): The existing High Court in Sikkim becomes the High Court for the State of Sikkim.

Clause (j): All existing courts and authorities continue to function as they were before the appointed day.

Clause (k): All laws in force before the appointed day continue to be in force until amended or repealed.

Outcome: The High Court and other judicial bodies in Sikkim continue to function as they did before integration, and existing laws remain in effect until changed by a competent authority.

Example 5:

Scenario: Adaptation and Modification of Laws

Situation: Adapting existing laws in Sikkim to align with the Indian Constitution.

Application of Article 371F:

Clause (l): The President can make necessary adaptations and modifications to existing laws within two years from the appointed day to align them with the Indian Constitution.

Outcome: The President issues orders to adapt and modify existing laws in Sikkim to ensure they are consistent with the Indian Constitution, and these modifications cannot be challenged in court.

Example 6:

Scenario: Extension of Indian Laws to Sikkim

Situation: Extending Indian laws to Sikkim with necessary modifications.

Application of Article 371F:

Clause (n): The President can extend any Indian law to Sikkim with necessary restrictions or modifications.

Outcome: The President issues a public notification to extend specific Indian laws to Sikkim, ensuring they are applicable with any required modifications to suit the state's context.

### **Article 371G: Special provision with respect to the State of Mizoram.**

Notwithstanding anything in this Constitution, -

(a) no Act of Parliament in respect of -

- (i) religious or social practices of the Mizos,
- (ii) Mizo customary law and procedure,
- (iii) administration of civil and criminal justice involving decisions according to Mizo customary law,
- (iv) ownership and transfer of land,

shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

(b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.

### **Simplified act**

No matter what is written in this Constitution, -

(a) no law made by the Parliament about -

- (i) the religious or social practices of the Mizos,
- (ii) Mizo traditional laws and procedures,
- (iii) handling civil and criminal cases based on Mizo traditional laws,
- (iv) owning and transferring land, will apply to the State of Mizoram unless the Legislative Assembly of Mizoram agrees by passing a resolution:

However, this rule does not affect any Central laws that were already in place in the Union territory of Mizoram before the Constitution (Fifty-third Amendment) Act, 1986 started;

(b) the Legislative Assembly of the State of Mizoram must have at least forty members.

Explanation using Example

Example 1:

Scenario: A new Central law is passed by the Indian Parliament that regulates the ownership and transfer of agricultural land across India.

Application in Mizoram: This new law will not automatically apply to Mizoram. For it to be applicable in Mizoram, the Legislative Assembly of Mizoram must pass a resolution agreeing to adopt this law. Until such a resolution is passed, the ownership and transfer of land in Mizoram will continue to be governed by Mizo customary laws.

#### Example 2:

Scenario: The Indian Parliament enacts a law that changes the procedures for civil and criminal justice across the country.

Application in Mizoram: This law will not apply to Mizoram unless the Legislative Assembly of Mizoram decides to adopt it through a resolution. Therefore, civil and criminal justice in Mizoram will continue to be administered according to Mizo customary law unless the state assembly decides otherwise.

#### Example 3:

Scenario: A new Central law is introduced that affects religious practices across India.

Application in Mizoram: This law will not be applicable in Mizoram unless the Legislative Assembly of Mizoram passes a resolution to adopt it. Religious practices in Mizoram will continue to be governed by Mizo customary practices unless the state assembly decides to implement the new Central law.

#### Example 4:

Scenario: The Indian Parliament passes a law that impacts social practices, such as marriage and inheritance laws, across the country.

Application in Mizoram: This law will not apply to Mizoram unless the Legislative Assembly of Mizoram passes a resolution to adopt it. Social practices in Mizoram, including marriage and inheritance, will continue to be governed by Mizo customary laws unless the state assembly decides to adopt the new law.

#### Example 5:



Scenario: Before the Constitution (Fifty-third Amendment) Act, 1986, a Central law was already in force in the Union territory of Mizoram regarding environmental protection.

Application in Mizoram: This Central law will continue to be in force in Mizoram even after it became a state, as the provision in Article 371G does not affect Central laws that were already in force before the commencement of the Constitution (Fifty-third Amendment) Act, 1986.

**Article 371H: Special provision with respect to the State of Arunachal Pradesh.**

Notwithstanding anything in this Constitution,

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken :

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment :

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order ;

(b) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.

**Simplified act**

No matter what is written in this Constitution, -

(a) The Governor of Arunachal Pradesh has a special duty to take care of law and order in the state. When doing this job, the Governor must talk to the Council of Ministers but can make the final decision on his own:

If there is any doubt about whether the Governor should make a decision on his own, the Governor's decision will be final. No one can question the Governor's actions based on whether he should or should not have made the decision by himself.

If the President receives a report from the Governor or finds out in some other way that the Governor no longer needs to have this special duty, the President can order that the Governor stops having this responsibility from a specific date mentioned in the order.

(b) The Legislative Assembly of Arunachal Pradesh must have at least thirty members.

Explanation using Example

Example 1:

Scenario: A sudden outbreak of violence occurs in a remote district of Arunachal Pradesh due to a long-standing tribal dispute.

Application of Article 371H:

The Governor of Arunachal Pradesh, recognizing the severity of the situation, consults with the Council of Ministers.

After the consultation, the Governor decides to deploy additional police forces to the affected area to restore order, using his individual judgment as per Article 371H(a).

Some local leaders question the Governor's decision, arguing that he should have taken a different approach.

However, under Article 371H, the Governor's decision is final and cannot be challenged on the grounds that he should have acted differently.

Example 2:

Scenario: The President of India receives a report from the Governor of Arunachal Pradesh stating that the law and order situation in the state has significantly improved and that the special responsibility is no longer necessary.

Application of Article 371H:

The President reviews the report and other relevant information.

Satisfied with the improvements, the President issues an order stating that the Governor's special responsibility with respect to law and order in Arunachal Pradesh will cease from a specified date.

From that date onwards, the Governor no longer has the special responsibility for law and order, and the state government assumes full control over these matters.

Example 3:

Scenario: The Legislative Assembly of Arunachal Pradesh is being reconstituted, and there is a debate on the number of members it should have.

Application of Article 371H:

Article 371H(b) mandates that the Legislative Assembly of Arunachal Pradesh must consist of at least thirty members.

Therefore, any proposal to reduce the number of members below thirty would be unconstitutional.

The Assembly is reconstituted with at least thirty members, ensuring compliance with the constitutional requirement.

### **Article 371I: Special provision with respect to the State of Goa.**

Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.

### **Simplified act**

No matter what else is written in this Constitution, the Legislative Assembly of the State of Goa must have at least thirty members.

Explanation using Example

Example 1:

Rajesh is a political science student in Goa. He is curious about the structure of the Legislative Assembly in his state. He learns that according to Article 371I of the Constitution of India, the Legislative Assembly of Goa must have at least 30 members. This means that no matter what changes occur in the future, the number of members in the Legislative Assembly cannot be reduced below 30. This provision ensures that there is adequate representation for the people of Goa in their state legislature.

## Example 2:

During a political debate, a candidate suggests that the number of members in the Goa Legislative Assembly should be reduced to 25 to streamline decision-making. However, another candidate points out that this is not possible due to Article 371I of the Constitution of India, which mandates that the Legislative Assembly of Goa must have at least 30 members. This provision is designed to maintain a minimum level of representation and cannot be altered by state legislation or political decisions.

### **Article 371J: Special provisions with respect to the State of Karnataka.**

(1) The President may, by order made with respect to the State of Karnataka, provide for any special responsibility of the Governor for-

(a) establishment of a separate development board for Hyderabad-Karnataka region with the provision that a report on the working of the board will be placed each year before the State Legislative Assembly;

(b) equitable allocation of funds for developmental expenditure over the said region, subject to the requirements of the State as a whole; and

(c) equitable opportunities and facilities for the people belonging to the said region, in matters of public employment, education and vocational training, subject to the requirements of the State as a whole.

(2) An order made under sub-clause (c) of clause (1) may provide for-

(a) reservation of a proportion of seats in educational and vocational training institutions in the Hyderabad-Karnataka region for students who belong to that region by birth or by domicile; and

(b) identification of posts or classes of posts under the State Government and in any body or organisation under the control of the State Government in the Hyderabad-Karnataka region and reservation of a proportion of such posts for persons who belong to that region by birth or by domicile and for appointment thereto by direct recruitment or by promotion or in any other manner as may be specified in the order.

### **Simplified act**

(1) The President can make an order for the State of Karnataka to give the Governor special responsibilities for:

(a) Setting up a separate development board for the Hyderabad-Karnataka region. A report on how the board is working must be presented to the State Legislative Assembly every year.

(b) Fairly distributing funds for development in the Hyderabad-Karnataka region, while considering the needs of the entire State.

(c) Ensuring fair opportunities and facilities for people from the Hyderabad-Karnataka region in public jobs, education, and vocational training, while considering the needs of the entire State.

(2) An order made under part (c) of section (1) can include:

(a) Reserving a certain number of seats in educational and vocational training institutions in the Hyderabad-Karnataka region for students who are from that region either by birth or by living there.

(b) Identifying certain jobs or types of jobs under the State Government and any organization controlled by the State Government in the Hyderabad-Karnataka region, and reserving a certain number of these jobs for people from that region either by birth or by living there. These jobs can be filled by direct recruitment, promotion, or any other method specified in the order.

Explanation using Example

Example 1:

Scenario: Establishment of a Development Board

The President of India issues an order to establish a separate development board for the Hyderabad-Karnataka region. This board is responsible for overseeing the development projects in the region. Each year, the board prepares a report detailing its activities, achievements, and challenges, which is then presented to the Karnataka State Legislative Assembly. This ensures transparency and accountability in the development efforts of the region.

Impact:

The Hyderabad-Karnataka region sees focused development projects such as improved infrastructure, better healthcare facilities, and enhanced educational institutions.

The annual report helps the State Legislative Assembly monitor the progress and address any issues promptly.

## Example 2:

### Scenario: Equitable Allocation of Funds

The Governor of Karnataka, under the special responsibility provided by the President's order, ensures that the Hyderabad-Karnataka region receives a fair share of the state's developmental funds. For instance, if the state allocates ₹10,000 crores for development, a significant portion is earmarked specifically for projects in the Hyderabad-Karnataka region, considering its unique needs and challenges.

#### Impact:

The region receives adequate funding for critical projects such as road construction, water supply schemes, and educational programs.

This helps bridge the development gap between the Hyderabad-Karnataka region and other parts of the state.

## Example 3:

### Scenario: Reservation in Educational Institutions

A student named Ramesh, who was born and has lived in the Hyderabad-Karnataka region, applies for admission to a state-run engineering college. Thanks to the special provisions under Article 371J, a certain percentage of seats in the college are reserved for students from the Hyderabad-Karnataka region. Ramesh benefits from this reservation and secures a seat in the college.

#### Impact:

Students from the Hyderabad-Karnataka region have better access to higher education and vocational training.

This leads to improved educational outcomes and better job prospects for the youth in the region.

## Example 4:

### Scenario: Reservation in Public Employment

The Karnataka State Government identifies certain posts in its departments and organizations that are reserved for individuals from the Hyderabad-Karnataka region. Priya, who was born and resides in the region, applies for a

government job and benefits from this reservation policy. She secures a position in the state government through direct recruitment.

Impact:

Residents of the Hyderabad-Karnataka region have better opportunities for public employment.

This promotes regional representation in the state government and helps address local issues more effectively.

**Article 372: Continuance in force of existing laws and their adaptation.**

(1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(3) Nothing in clause (2) shall be deemed -

(a) to empower the President to make any adaptation or modification of any law after the expiration of three years from the commencement of this Constitution; or

(b) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

Explanation I. - The expression "law in force" in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II. - Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

Explanation III. - Nothing in this article shall be construed as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

Explanation IV. - An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

### **Simplified act**

(1) Even though some laws are repealed by this Constitution as mentioned in article 395, all the laws that were in effect in India right before this Constitution started will continue to be in effect. This will remain so until they are changed or repealed by a competent Legislature or authority.

(2) To make sure that the existing laws match the new Constitution, the President can make changes to these laws. This can include repealing or amending them as needed. The President can specify when these changes will take effect, and these changes cannot be challenged in court.

(3) However, there are limits to the President's power:

(a) The President cannot make changes to any law after three years from the start of this Constitution.

(b) Any competent Legislature or authority can still repeal or amend any law that the President has changed.

Explanation I. - "Law in force" includes any law made by a Legislature or authority in India before this Constitution started, even if it wasn't in effect everywhere or at all at that time.



Explanation II. - Any law that had effects outside India as well as within India before this Constitution started will continue to have those effects, subject to any changes made as mentioned above.

Explanation III. - This article does not extend the life of any temporary law beyond its original expiration date or the date it would have expired if this Constitution had not started.

Explanation IV. - An Ordinance issued by a Province Governor under section 88 of the Government of India Act, 1935, and in effect right before this Constitution started, will stop being in effect six weeks after the first meeting of the State Legislative Assembly under article 382(1), unless the Governor withdraws it earlier. This article does not extend the life of such an Ordinance beyond this period.

Explanation using Example

Example 1:

Scenario: Pre-Independence Law on Property Rights

Context: Before the Constitution of India came into effect, there was a law called the Transfer of Property Act, 1882, which governed property rights in India. This law was in force immediately before the commencement of the Constitution.

Application of Article 372:

Continuance: According to Article 372(1), the Transfer of Property Act, 1882, continued to be in force even after the Constitution came into effect, until it was altered, repealed, or amended by a competent Legislature.

Adaptation by President: If there was a need to align the Transfer of Property Act with the new constitutional provisions, the President could make necessary adaptations or modifications to this law within three years of the Constitution's commencement, as per Article 372(2).

Legislative Power: After the three-year period, any further changes to the Transfer of Property Act would have to be made by the Parliament or other competent authority, as stated in Article 372(3).

Example 2:

Scenario: Law on Criminal Procedure

Context: The Code of Criminal Procedure, 1898, was a law in force before the Constitution of India came into effect. This law governed the procedures for criminal trials and investigations.

Application of Article 372:

Continuance: Under Article 372(1), the Code of Criminal Procedure, 1898, continued to be in force after the Constitution commenced, until it was altered, repealed, or amended by a competent Legislature.

Adaptation by President: To ensure that the Code of Criminal Procedure was in line with the new constitutional provisions, the President could make necessary adaptations or modifications within three years of the Constitution's commencement, as per Article 372(2).

Legislative Power: After the three-year period, any further amendments or repeals to the Code of Criminal Procedure would have to be carried out by the Parliament or other competent authority, as per Article 372(3).

Example 3:

Scenario: Temporary Law on Emergency Provisions

Context: Before the Constitution came into effect, there was a temporary law that allowed the government to impose emergency measures in certain situations. This law was set to expire on a specific date.

Application of Article 372:

Temporary Law Expiration: According to Explanation III of Article 372, this temporary law would not continue beyond its fixed expiration date, even after the Constitution came into effect.

No Continuance: The temporary law would expire as scheduled, and Article 372 would not be construed to extend its validity beyond the set expiration date.

Example 4:

Scenario: Ordinance by Governor

Context: Before the Constitution commenced, the Governor of a Province had promulgated an ordinance under section 88 of the Government of India Act, 1935. This ordinance was in force immediately before the Constitution came into effect.

Application of Article 372:

Ordinance Validity: As per Explanation IV of Article 372, this ordinance would continue to be in force for six weeks from the first meeting of the Legislative Assembly of the corresponding State after the Constitution commenced.

Cease to Operate: If the Governor did not withdraw the ordinance earlier, it would cease to operate after the six-week period, ensuring that the ordinance did not continue indefinitely beyond the said period.

### **Article 372A: Power of the President to adapt laws.**

(1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order made before the first day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

### **Simplified act**

(1) To make sure that any law in India, or any part of India, matches the changes made by the Constitution (Seventh Amendment) Act, 1956, the President can make changes to these laws. This can be done by either removing parts of the law or changing them. The President must do this before November 1, 1957. Once the President makes these changes, the law will work according to these changes from the date mentioned in the order. No one can challenge these changes in any court.

(2) The rule in point (1) does not stop a qualified Legislature or other authority from changing or removing any law that the President has already changed.

Explanation using Example

Example 1:

Scenario: The Indian Parliament passed a law in 1950 that regulated the distribution of agricultural land. This law was in force before the Constitution (Seventh Amendment) Act, 1956.

Application of Article 372A: In 1956, the President of India, using the power granted by Article 372A, issued an order to adapt and modify the 1950 agricultural land distribution law to align it with the new provisions introduced by the Constitution (Seventh Amendment) Act, 1956. The President's order included changes such as updating the definitions of certain terms and repealing outdated sections of the law. These adaptations were necessary to ensure that the law was consistent with the amended Constitution.

Outcome: The modified law took effect from the date specified in the President's order, and its validity could not be challenged in any court of law. However, the Indian Parliament retained the power to further amend or repeal the modified law if needed.

Example 2:

Scenario: A state law enacted in 1948 governed the administration of public health services in a particular state. This law was in force before the Constitution (Seventh Amendment) Act, 1956.

Application of Article 372A: In 1956, the President of India, exercising the authority under Article 372A, issued an order to adapt and modify the 1948 state public health law to ensure it conformed with the new constitutional provisions introduced by the Seventh Amendment. The President's order included amendments such as changing the administrative structure and updating the roles and responsibilities of public health officials to align with the new constitutional framework.

Outcome: The adapted and modified state public health law became effective from the date specified in the President's order, and its validity could not be questioned in any court of law. Nevertheless, the state legislature retained the power to further amend or repeal the modified law if necessary.

**Article 373: Power of President to make order in respect of persons under preventive detention in certain cases.**

Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there were substituted a reference to the President

and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

### **Simplified act**

Until Parliament makes a law under clause (7) of article 22, or until one year has passed since this Constitution started, whichever happens first, article 22 will work as if:

Any mention of "Parliament" in clauses (4) and (7) of article 22 is replaced with "the President".

Any mention of a law made by Parliament in those clauses is replaced with an order made by the President.

#### Explanation using Example

##### Example 1:

Scenario: A suspected terrorist is detained by the police without trial.

Explanation: Under Article 373, if Parliament has not yet made provisions under clause (7) of Article 22, the President has the power to make orders regarding the detention of individuals. For instance, if a suspected terrorist is detained by the police and there is no existing law by Parliament addressing this specific situation, the President can issue an order to detain the individual for a certain period without trial, ensuring national security.

##### Example 2:

Scenario: A person is detained during a state of emergency for suspected involvement in anti-national activities.

Explanation: Suppose there is a state of emergency declared in the country, and a person is detained on suspicion of being involved in activities that threaten national security. If Parliament has not yet enacted specific laws under clause (7) of Article 22, the President can step in and issue an order to detain the person without trial for a specified period. This ensures that the government can act swiftly to maintain public order and safety during critical times.

**Article 374: Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.**

## Article

(1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same, and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) Nothing in this Constitution shall operate to invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such Court by this Constitution.

(4) On and from the commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State specified in Part B of the First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgment, decree or order of any court within that State shall cease, and all appeals and other proceedings pending before the said authority at such commencement shall be transferred to, and disposed of by, the Supreme Court.

(5) Further provision may be made by Parliament by law to give effect to the provisions of this article.

## **Simplified act**

## Article

(1) The Judges who were working in the Federal Court right before this Constitution started will automatically become Judges of the Supreme Court

unless they choose not to. They will get the same salaries, allowances, leave benefits, and pensions as mentioned in article 125 for Supreme Court Judges.

(2) Any legal cases, whether civil or criminal, that were ongoing in the Federal Court when this Constitution started will be moved to the Supreme Court. The Supreme Court will handle these cases, and any decisions or orders made by the Federal Court before this Constitution started will be treated as if they were made by the Supreme Court.

(3) This Constitution does not affect the power of His Majesty in Council to handle appeals and petitions related to any court decisions within India, as long as this power is allowed by law. Any orders made by His Majesty in Council after this Constitution started will be considered as if they were made by the Supreme Court.

(4) From the time this Constitution starts, the Privy Council in certain States listed in Part B of the First Schedule will no longer have the power to handle appeals and petitions related to court decisions in those States. Any ongoing appeals or proceedings in the Privy Council at that time will be transferred to the Supreme Court.

(5) Parliament can make more laws to support the rules mentioned in this article.

#### Explanation using Example

##### Example 1:

Scenario: Transition of Judges from Federal Court to Supreme Court

Situation: Justice Kumar was a judge in the Federal Court of India before the Constitution of India came into effect. With the commencement of the Constitution, Justice Kumar did not opt out of his position.

Application of Article 374(1): Justice Kumar automatically became a judge of the newly established Supreme Court of India. He is now entitled to the same salary, allowances, leave, and pension benefits as other Supreme Court judges under Article 125 of the Constitution.

##### Example 2:

Scenario: Pending Cases in the Federal Court

Situation: A civil case involving a property dispute between Mr. Sharma and Mr. Verma was pending in the Federal Court at the time the Constitution of India commenced.

Application of Article 374(2): The pending property dispute case is automatically transferred to the Supreme Court. The Supreme Court now has the jurisdiction to hear and determine the case. Any judgment or order previously made by the Federal Court in this case will be treated as if it was made by the Supreme Court.

#### Example 3:

Scenario: Appeals to His Majesty in Council

Situation: Before the Constitution commenced, an appeal from a High Court judgment in a criminal case involving Mr. Singh was pending before His Majesty in Council.

Application of Article 374(3): The jurisdiction of His Majesty in Council to dispose of the appeal remains valid. Any order made by His Majesty in Council after the commencement of the Constitution will be treated as if it were an order made by the Supreme Court of India.

#### Example 4:

Scenario: Appeals from Part B States

Situation: An appeal from a judgment of the High Court of Hyderabad (a Part B State) was pending before the Privy Council at the time the Constitution commenced.

Application of Article 374(4): The jurisdiction of the Privy Council to entertain and dispose of appeals from the High Court of Hyderabad ceases. The pending appeal is transferred to the Supreme Court, which will now dispose of the case.

#### Example 5:

Scenario: Further Legislative Provisions

Situation: Parliament decides that additional rules are needed to ensure the smooth transition of cases and judges from the Federal Court to the Supreme Court.

Application of Article 374(5): Parliament enacts a law providing detailed procedures for the transfer of cases and the terms of service for judges



transitioning from the Federal Court to the Supreme Court, thereby giving effect to the provisions of Article 374.

**Article 375: Courts, authorities and officers to continue to function subject to the provisions of the Constitution.**

All courts of civil, criminal and revenue jurisdiction

All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

**Simplified act**

All courts of civil, criminal and revenue jurisdiction

All courts that handle civil, criminal, and revenue cases, as well as all authorities and officers (whether they are judges, government officials, or administrative staff) across India, will keep doing their jobs as usual, but they must follow the rules set out in this Constitution.

Explanation using Example

Example 1:

Scenario: A civil court in Mumbai is handling a property dispute case that started before the Constitution of India came into effect.

Application: According to Article 375, the civil court in Mumbai will continue to handle the property dispute case as it did before, but now it must ensure that its actions and decisions comply with the provisions of the Constitution of India. For instance, if the Constitution provides new rights or procedures, the court must follow these while resolving the case.

Example 2:

Scenario: A revenue officer in Delhi is responsible for collecting land revenue and maintaining land records. This role existed before the Constitution of India was enacted.

Application: Under Article 375, the revenue officer will continue to perform their duties of collecting land revenue and maintaining land records. However, they must now do so in accordance with the provisions of the Constitution. For

example, if the Constitution introduces new guidelines for land revenue collection or provides special protections for certain groups, the revenue officer must adhere to these new constitutional requirements.

### **Article 376: Provisions as to Judges of High Courts.**

#### Article

(1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court. Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.

(2) The Judges of a High Court in any Indian State corresponding to any State specified in Part B of the First Schedule holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the State so specified and shall, notwithstanding anything in clauses (1) and (2) of article 217 but subject to the proviso to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

(3) In this article, the expression "Judge" does not include an acting Judge or an additional Judge.

### **Simplified act**

#### Article

(1) Despite what is mentioned in clause (2) of article 217, the Judges of a High Court in any Province who were in office right before this Constitution started will automatically become Judges of the High Court in the corresponding State when the Constitution starts, unless they choose otherwise. They will then receive the same salaries, allowances, leave, and pension benefits as provided under article 221 for Judges of that High Court. Even if a Judge is not an Indian citizen, they can still be appointed as the Chief Justice of that High Court or as the Chief Justice or another Judge of any other High Court.

(2) The Judges of a High Court in any Indian State that matches any State listed in Part B of the First Schedule who were in office right before this Constitution started will automatically become Judges of the High Court in the specified State when the Constitution starts, unless they choose otherwise. They will continue to hold office until the President decides otherwise, despite what is mentioned in clauses (1) and (2) of article 217, but subject to the condition mentioned in clause (1) of that article.

(3) In this article, the term "Judge" does not include an acting Judge or an additional Judge.

#### Explanation using Example

##### Example 1:

Scenario: Justice Sharma was a judge in the High Court of Bombay before the Constitution of India came into effect.

##### Application of Article 376:

Justice Sharma, who was holding office immediately before the commencement of the Constitution, automatically became a judge of the High Court of Maharashtra (the corresponding state) when the Constitution commenced.

He did not need to reapply or be reappointed; his position transitioned seamlessly.

Justice Sharma continued to receive the same salary, allowances, and pension rights as provided under Article 221 for judges of the High Court.

Even though Justice Sharma was not a citizen of India at the time, he was still eligible to be appointed as the Chief Justice of the High Court of Maharashtra or any other High Court.

##### Example 2:

Scenario: Justice Singh was a judge in the High Court of Mysore, which corresponds to the State of Karnataka, before the Constitution of India came into effect.

##### Application of Article 376:

Justice Singh, who was holding office immediately before the commencement of the Constitution, automatically became a judge of the High Court of Karnataka (the corresponding state) when the Constitution commenced.

Justice Singh had the option to elect otherwise, but if he did not, he continued as a judge in the High Court of Karnataka.

Despite the provisions in clauses (1) and (2) of Article 217, Justice Singh continued to hold office until the period determined by the President through an order.

Justice Singh's position, salary, allowances, and pension rights were protected under Article 221, ensuring continuity and stability in his judicial role.

### **Article 377: Provisions as to Comptroller and Auditor-General of India.**

The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

### **Simplified act**

The person who was the Auditor-General of India right before this Constitution started will automatically become the Comptroller and Auditor-General of India when the Constitution begins, unless they choose not to. This person will then receive the same salary, leave, and pension benefits as mentioned in clause (3) of article 148 for the Comptroller and Auditor-General of India. They will also continue to stay in office until their term ends, according to the rules that applied to them before the Constitution started.

Explanation using Example

Example 1:

Mr. Sharma was the Auditor-General of India before the Constitution of India came into effect on January 26, 1950. Upon the commencement of the Constitution, Mr. Sharma automatically became the Comptroller and Auditor-General (CAG) of India. He did not opt out of this transition. As a result, Mr. Sharma continued to receive the same salary, leave benefits, and pension rights as specified under Article 148(3) of the Constitution. He remained in

office until the end of his original term, which was determined by the rules that applied to him before the Constitution came into force.

**Example 2:**

Ms. Rao was serving as the Auditor-General of India on January 25, 1950. When the Constitution of India commenced on January 26, 1950, she had the option to either continue as the Comptroller and Auditor-General (CAG) of India or to step down. Ms. Rao chose to continue in her role. Consequently, she was entitled to the same salary, leave of absence, and pension benefits as outlined in Article 148(3) of the Constitution. She served as the CAG until the end of her term, which was governed by the pre-existing rules applicable to her position before the Constitution was enacted.

**Article 378: Provisions as to Public Service Commissions.**

(1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The Members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the corresponding State or the members of the Joint State Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

**Simplified act**

(1) The people who were members of the Public Service Commission for the Dominion of India right before this Constitution started will automatically become members of the Public Service Commission for the Union when the

Constitution starts, unless they choose not to. They will keep their jobs until their term ends, according to the rules that were in place before the Constitution started, even if other parts of the Constitution say otherwise.

(2) The people who were members of a Public Service Commission for a Province or a group of Provinces right before this Constitution started will automatically become members of the Public Service Commission for the corresponding State or the Joint State Public Service Commission for the corresponding States when the Constitution starts, unless they choose not to. They will keep their jobs until their term ends, according to the rules that were in place before the Constitution started, even if other parts of the Constitution say otherwise.

Explanation using Example

Example 1:

Mr. Sharma was a member of the Public Service Commission for the Dominion of India before the Constitution of India came into effect. When the Constitution commenced, Mr. Sharma did not opt out of his position. According to Article 378, Mr. Sharma automatically became a member of the Public Service Commission for the Union of India. He continued to serve in this role until the end of his original term, as determined by the rules that were in place before the Constitution commenced.

Example 2:

Ms. Rao was serving as a member of the Public Service Commission for the Province of Madras before the Constitution of India came into effect. Upon the commencement of the Constitution, Ms. Rao did not choose to leave her position. As per Article 378, she became a member of the Public Service Commission for the State of Tamil Nadu, which corresponds to the former Province of Madras. She continued to hold her office until the end of her term, as per the rules that were applicable before the Constitution commenced.

**Article 378A: Special provision as to duration of Andhra Pradesh Legislative Assembly.**

Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section

29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.

### **Simplified act**

Even though article 172 says something different, the Legislative Assembly of the State of Andhra Pradesh, which was set up according to sections 28 and 29 of the States Reorganisation Act, 1956, will stay in place for five years from the date mentioned in section 29, unless it is dissolved earlier. After these five years, the Legislative Assembly will automatically be dissolved.

Explanation using Example

Example 1:

In 1956, the States Reorganisation Act was passed, leading to the formation of the state of Andhra Pradesh. According to Article 378A of the Constitution of India, the first Legislative Assembly of Andhra Pradesh, which was constituted under sections 28 and 29 of the States Reorganisation Act, 1956, was to continue for a period of five years from the date specified in section 29. For instance, if the date referred to in section 29 was November 1, 1956, the Legislative Assembly would continue until November 1, 1961, unless it was dissolved earlier. After this period, the Assembly would automatically be dissolved.

Example 2:

Imagine a scenario where the Andhra Pradesh Legislative Assembly was constituted on January 1, 1957, under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956. According to Article 378A, this Assembly would have a tenure of five years, meaning it would continue until January 1, 1962, unless it was dissolved before this date. On January 1, 1962, the Assembly would automatically be dissolved, and new elections would need to be held to constitute a new Legislative Assembly.

**Article 379: Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example

Example 1:

Scenario: In 1950, when India became a republic, the newly formed government needed a temporary legislative body to function until a permanent Parliament could be established. Article 379 provided the framework for this provisional Parliament, including the roles of the Speaker and Deputy Speaker.

Application: Imagine a situation where the provisional Parliament was in session, and a dispute arose regarding the election of the Speaker. Article 379 would have provided the necessary guidelines to resolve this issue, ensuring that the provisional Parliament could function smoothly until the permanent Parliament was in place.

Example 2:

Scenario: In the early years after India's independence, there was a need for transitional provisions to manage the shift from British rule to a fully sovereign republic. Article 379 was part of these transitional provisions, ensuring that there was no legislative vacuum during this critical period.

Application: Consider a hypothetical situation where a law passed by the provisional Parliament was challenged in court. The court would refer to Article 379 to confirm the legitimacy of the provisional Parliament and its authority to enact laws during the transitional period. This would help maintain legal continuity and stability until the permanent Parliament was established.

### **Article 380: Provision as to President: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example



### Example 1:

Scenario: A law student is researching the powers and duties of the President of India as outlined in the Constitution of India. They come across Article 380 and find it marked as "Omitted."

Explanation: The student learns that Article 380 was originally part of the Constitution but was removed by the Constitution (Seventh Amendment) Act, 1956. This means that any provisions or rules that were once under Article 380 are no longer in effect and should not be considered when studying the current powers and duties of the President.

### Example 2:

Scenario: A historian is writing a book on the evolution of the Indian Constitution and comes across references to Article 380 in older legal texts. They are curious about its content and relevance.

Explanation: The historian discovers that Article 380 was omitted by the Constitution (Seventh Amendment) Act, 1956, effective from November 1, 1956. This omission indicates that the article was deemed unnecessary or redundant and was removed to streamline the Constitution. The historian can now focus on understanding why the amendment was made and how it impacted the structure of the Constitution.

### **Article 381: Council of Ministers of the President: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule

(with effect from 1-11-1956)

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956, Section 29 and Schedule

(This change took effect on November 1, 1956)

Explanation using Example

### Example 1:

Ravi, a law student, is studying the Constitution of India and comes across Article 381. He notices that it has been omitted by the Constitution (Seventh

Amendment) Act, 1956. Ravi wonders what this means. His professor explains that Article 381 originally dealt with the Council of Ministers of the President, but it was removed as part of the reorganization of states in 1956. This means that any references to Article 381 in older legal texts are no longer applicable, and the provisions that were once under this article have either been repealed or integrated into other parts of the Constitution.

Example 2:

Priya, a historian, is researching the changes in the Indian Constitution over the years. She finds that Article 381 was omitted by the Constitution (Seventh Amendment) Act, 1956. To understand the impact of this omission, she looks into the historical context. She learns that the Seventh Amendment was a significant change that reorganized the states and territories of India to better reflect linguistic and cultural identities. The omission of Article 381 was part of this broader effort to streamline the governance structure and eliminate redundant or outdated provisions. This helps Priya understand how the Indian Constitution has evolved to address the changing needs of the country.

**Article 382: Provisions as to provisional Legislatures for States in Part A of the First Schedule: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956)

**Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and Schedule (effective from November 1, 1956)

Explanation using Example

Example 1:

Before the Constitution (Seventh Amendment) Act, 1956, imagine the state of Maharashtra was classified under Part A of the First Schedule. The provisional legislature of Maharashtra had certain temporary provisions under Article 382 to manage the transition period after India gained independence. These provisions were meant to help the state government function smoothly until a more permanent legislative structure was established.

However, after the Seventh Amendment in 1956, these temporary provisions were no longer needed. The amendment restructured the states and their legislative frameworks, leading to the omission of Article 382. Now, Maharashtra operates under a permanent legislative structure without the need for provisional measures.

Example 2:

Consider the state of Punjab in the early 1950s. Punjab, being a Part A state, had a provisional legislature as per Article 382. This provisional legislature was responsible for making laws and governing the state during the transitional period post-independence.

For instance, if there was a need to pass a law regarding land reforms, the provisional legislature under Article 382 would have the authority to enact such a law temporarily until a permanent legislative body was established.

After the Constitution (Seventh Amendment) Act, 1956, these provisional measures were removed, and Punjab, like other states, transitioned to a permanent legislative framework. This meant that any laws or governance issues would now be handled by a fully established state legislature, making the provisional provisions under Article 382 obsolete.

### **Article 383: Provision as to Governors of Provinces: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule

(with effect from 1-11-1956)

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and Schedule

(This change took effect on November 1, 1956)

Explanation using Example

Example 1:

Scenario: Before the Constitution (Seventh Amendment) Act, 1956, there was a specific provision under Article 383 regarding the Governors of Provinces. This

provision might have included details about the appointment, powers, or duties of the Governors.

Real-life Application: Imagine a situation in 1955 where a citizen of a province in India wanted to challenge the appointment of a Governor, claiming it was not done according to the rules laid out in Article 383. The citizen could have taken the matter to court, citing the specific provisions of Article 383 to support their case.

Post-Amendment: After the Constitution (Seventh Amendment) Act, 1956, Article 383 was omitted. This means that any legal challenges or references to the provisions of Article 383 would no longer be valid. The legal framework for the appointment and duties of Governors would now be governed by other relevant articles and provisions in the Constitution.

Example 2:

Scenario: A law student in 1957 is studying the Indian Constitution and comes across references to Article 383 in older legal texts and case laws. The student is confused because the current version of the Constitution does not contain Article 383.

Real-life Application: The student consults a professor who explains that Article 383 was omitted by the Constitution (Seventh Amendment) Act, 1956. The professor further explains that the omission was part of a broader effort to reorganize states and streamline the governance structure in India. The student learns that legal provisions can be amended or omitted to reflect changing political and administrative needs.

Post-Amendment: The student now understands that any legal principles or cases that previously relied on Article 383 must be interpreted in the context of the current constitutional framework. This helps the student appreciate the dynamic nature of constitutional law and the importance of staying updated with amendments.

### **Article 384: Council of Ministers of the Governors: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

### Explanation using Example

#### Example 1:

Scenario: Before the Seventh Amendment in 1956, imagine a state in India where the Governor had a Council of Ministers to assist in governance. This Council of Ministers was established under Article 384 of the Constitution of India.

Situation: The Governor of the state of Madhya Pradesh had a Council of Ministers who were responsible for advising him on various state matters. This Council was crucial in helping the Governor make decisions on issues like state budgets, law and order, and public welfare programs.

Change: After the Seventh Amendment in 1956, Article 384 was omitted. This meant that the specific provision for the Council of Ministers of the Governors was removed from the Constitution. The governance structure was reformed, and the roles and responsibilities of the Governor and the state government were redefined.

Impact: Post-omission, the state of Madhya Pradesh no longer had a Council of Ministers specifically under Article 384. Instead, the governance structure was aligned with the new provisions introduced by the Seventh Amendment, which aimed to streamline and standardize the administrative framework across states.

#### Example 2:

Scenario: Prior to the Seventh Amendment, a state like Andhra Pradesh had a Council of Ministers under Article 384 to assist the Governor in administrative functions.

Situation: The Council of Ministers in Andhra Pradesh played a significant role in advising the Governor on policy decisions, implementation of state laws, and other administrative duties. This Council was a key part of the state's governance structure.

Change: With the enactment of the Seventh Amendment in 1956, Article 384 was omitted. This legislative change meant that the specific constitutional provision for the Council of Ministers of the Governors was no longer in effect.

Impact: Following the omission, the governance model in Andhra Pradesh was adjusted to comply with the new constitutional framework. The roles and responsibilities of the Governor and the state government were redefined to ensure a more uniform administrative structure across all states in India. This change was part of a broader effort to improve the efficiency and effectiveness of state governance.

**Article 385: Provision as to provisional Legislatures in States in Part B of the First Schedule: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

**Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example

Example 1:

Scenario: Imagine it's the year 1955, and India has recently gained independence. The country is still in the process of organizing its states and their respective legislatures. States in Part B of the First Schedule, such as Hyderabad and Mysore, have provisional legislatures set up to manage state affairs temporarily.

Application: Article 385 provided guidelines for these provisional legislatures, ensuring they functioned until a more permanent legislative structure could be established. This was crucial for maintaining governance and order during the transitional period.

Outcome: By 1956, the reorganization of states was completed, and the need for provisional legislatures was eliminated. Therefore, Article 385 was omitted by the Constitution (Seventh Amendment) Act, 1956, as it was no longer relevant.

Example 2:

Scenario: Consider a historian researching the legislative history of India. They come across references to provisional legislatures in states like Rajasthan and

Madhya Bharat, which were part of Part B states in the First Schedule before 1956.

Application: The historian finds that Article 385 once provided the legal framework for these provisional legislatures. However, after the states were reorganized and integrated into a more stable structure, the article was omitted to reflect the new political reality.

Outcome: The historian understands that the omission of Article 385 by the Constitution (Seventh Amendment) Act, 1956, marked the end of the transitional phase for these states, signifying a move towards a more permanent and organized legislative system in India.

### **Article 386: Council of Ministers for States in Part B of the First Schedule: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example

Example 1:

Scenario: Before 1956, a state in Part B of the First Schedule, such as Hyderabad, had its own Council of Ministers responsible for the administration of the state.

Situation: A resident of Hyderabad in 1955 had a grievance regarding the local administration and wanted to approach the Council of Ministers for redressal.

Application: The resident could directly approach the Council of Ministers of Hyderabad to address their issue, as the Council was responsible for the governance of the state.

Post-1956 Change: After the Constitution (Seventh Amendment) Act, 1956, the provision for a separate Council of Ministers for states in Part B was omitted. Hyderabad was merged into the newly formed state of Andhra Pradesh, and the

administrative responsibilities were transferred to the Council of Ministers of Andhra Pradesh.

Current Scenario: Now, if a resident of the region that was formerly Hyderabad has a grievance, they would approach the Council of Ministers of Andhra Pradesh instead of a separate Council for Hyderabad.

Example 2:

Scenario: In 1954, a businessman in the state of Mysore (a Part B state) wanted to understand the local governance structure for setting up a new factory.

Situation: The businessman needed to get approvals from the Council of Ministers of Mysore, which was responsible for local governance and economic policies.

Application: The businessman would submit his application and seek necessary approvals from the Council of Ministers of Mysore, which had the authority to grant permissions and oversee economic activities in the state.

Post-1956 Change: After the Constitution (Seventh Amendment) Act, 1956, Mysore was restructured, and the separate Council of Ministers for Mysore was omitted. The state was reorganized, and the governance structure was integrated into the larger state of Karnataka.

Current Scenario: Now, a businessman in the region that was formerly Mysore would approach the Council of Ministers of Karnataka for any approvals and governance-related matters.

**Article 387: Special provision as to determination of population for the purposes of certain elections: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example



### Example 1:

Imagine a scenario where the government of India is planning to conduct elections for a newly formed state. Before the Seventh Amendment in 1956, Article 387 would have provided specific guidelines on how to determine the population of that state for the purpose of allocating seats in the legislative assembly. However, since Article 387 has been omitted, the government now follows the updated provisions and guidelines as per the amendments made in the Constitution.

### Example 2:

Consider a situation where a citizen is curious about how the population was determined for electoral purposes in the past. They come across Article 387 in an old legal document. Upon further research, they find out that this article has been omitted by the Constitution (Seventh Amendment) Act, 1956. This means that the specific rules that were once in place under Article 387 are no longer applicable, and the current process for determining population for elections is governed by the updated laws and amendments.

### **Article 388: Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956)

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and Schedule (effective from November 1, 1956)

Explanation using Example

### Example 1:

Imagine that in 1955, a member of the provisional Parliament of India resigned due to personal reasons. According to Article 388, there would have been specific provisions detailing how to fill this casual vacancy. For instance, a by-election might have been held to elect a new member to serve the remaining term. However, after the Constitution (Seventh Amendment) Act, 1956, these

provisions were omitted, meaning that the process for filling such vacancies was either changed or no longer specified in the same manner.

Example 2:

Consider a scenario in 1954 where a member of the provisional Legislature of a State in India passed away. Article 388 would have provided guidelines on how to fill this vacancy, perhaps through an appointment or a special election. Post-1956, with the omission of Article 388 by the Constitution (Seventh Amendment) Act, 1956, these guidelines were removed, indicating that the process for handling such vacancies was either revised or integrated into other parts of the Constitution or relevant laws.

**Article 389: Provision as to Bills pending in the Dominion Legislatures and in the Legislatures of Provinces and Indian States: Omitted.**

**Article 390: Money received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1950: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

### **Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example

Example 1:

Imagine the Indian government collected taxes and incurred expenses for various public projects between January 26, 1950, when the Constitution of India came into effect, and March 31, 1950. Article 390 originally provided guidelines on how to handle these financial transactions during this transitional period. However, this Article was later omitted by the Constitution (Seventh Amendment) Act, 1956. This means that any specific rules or provisions that were initially set out in Article 390 are no longer applicable or enforceable.

Example 2:

Suppose a citizen wanted to challenge the legality of certain government expenditures made in February 1950, arguing that they were not in accordance with the guidelines set out in Article 390. Since Article 390 has been omitted by the Constitution (Seventh Amendment) Act, 1956, the citizen would not be able to rely on this Article for their legal argument. They would need to look at other relevant laws or constitutional provisions that were in effect at that time to support their case.

**Article 391: Power of the President to amend the First and Fourth Schedules in certain contingencies: Omitted.**

Omitted by the Constitution (Seventh Amendment) Act, 1956

s. 29 and Schedule (with effect from 1-11-1956).

**Simplified act**

Removed by the Constitution (Seventh Amendment) Act, 1956

Section 29 and the Schedule were removed starting from November 1, 1956.

Explanation using Example

Example 1:

Scenario: Before the Seventh Amendment in 1956, the President of India had the power to amend the First and Fourth Schedules of the Constitution under Article 391.

Example: Imagine in 1955, the President decided to amend the First Schedule, which lists the states and union territories of India. Suppose a new state, "Uttarakhand," was to be created from parts of Uttar Pradesh. The President could have used the power under Article 391 to make this change in the First Schedule.

Example 2:

Scenario: Before the Seventh Amendment in 1956, the President also had the power to amend the Fourth Schedule, which allocates seats in the Rajya Sabha (Council of States) to different states and union territories.

Example: In 1954, if the population of Maharashtra increased significantly, the President could have used Article 391 to amend the Fourth Schedule to

allocate more seats to Maharashtra in the Rajya Sabha, reflecting its increased population.

Note: These examples are hypothetical and illustrate how the President's power under Article 391 could have been used before it was omitted by the Seventh Amendment in 1956.

### **Article 392: Power of the President to remove difficulties.**

(1) The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

(2) Every order made under clause (1) shall be laid before Parliament.

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

### **Simplified act**

(1) The President can make changes to this Constitution to solve any problems, especially those related to switching from the old Government of India Act, 1935, to this new Constitution. These changes can include modifications, additions, or removals and will be in effect for a specified period as mentioned in the order:

However, the President cannot make such changes after the first meeting of the newly formed Parliament under Chapter II of Part V.

(2) Every order made by the President under the above rule must be presented to Parliament.

(3) The powers given to the President by this article, by article 324, by clause (3) of article 367, and by article 391 can be used by the Governor-General of the Dominion of India before this Constitution starts.

## Explanation using Example

### Example 1:

Scenario: Transition from the Government of India Act, 1935 to the Constitution of India

Situation: After the Constitution of India came into effect on January 26, 1950, there were certain administrative and legal processes that were still governed by the Government of India Act, 1935. For instance, the process of appointing judges to the High Courts was still following the old procedures.

Action by the President: To remove this difficulty, the President issued an order stating that the appointment of judges to the High Courts would now follow the new procedures outlined in the Constitution of India. This order specified that the new procedures would take effect immediately and would override the old provisions.

Outcome: The transition to the new system was smooth, and the judiciary began functioning under the new constitutional framework without any legal ambiguities.

### Example 2:

Scenario: Adaptation of laws during the transition period

Situation: After the Constitution of India was adopted, certain laws and regulations needed to be adapted to fit the new constitutional framework. For example, the laws related to land revenue collection were still based on the colonial-era regulations.

Action by the President: The President issued an order modifying the existing land revenue laws to align them with the principles of the new Constitution. This included changes such as ensuring that land revenue collection processes were fair and just, and that they respected the rights of landowners as guaranteed by the Constitution.

Outcome: The modified laws were implemented, ensuring that land revenue collection was conducted in a manner consistent with the new constitutional values, thereby removing any difficulties arising from the transition.

### Example 3:

Scenario: Addressing administrative difficulties in newly formed states

Situation: After the reorganization of states in India, some newly formed states faced administrative difficulties due to the lack of clear guidelines on the division of assets and liabilities between the old and new states.

Action by the President: The President issued an order providing detailed guidelines on how the assets and liabilities should be divided between the old and new states. This order included provisions for the transfer of government employees, distribution of financial resources, and allocation of public infrastructure.

Outcome: The clear guidelines helped in the smooth transition and functioning of the newly formed states, ensuring that there were no administrative hurdles or disputes.

Example 4:

Scenario: Ensuring continuity of government services during the transition

Situation: During the transition from the Government of India Act, 1935 to the Constitution of India, there was a concern that certain essential government services, such as postal services and railways, might face disruptions.

Action by the President: The President issued an order stating that all existing regulations and procedures governing these essential services would continue to be in effect until new regulations were formulated under the Constitution. This order ensured that there was no disruption in the delivery of essential services.

Outcome: The continuity of essential services was maintained, and the public did not face any inconvenience during the transition period.

## **PART XXII: SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEALS**

### **Article 393: Short title.**

Constitution of India

- This Constitution may be called the Constitution of India.

### **Article 394: Commencement.**

- This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution.

### **Simplified act**

This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392, and 393 will start working immediately. The rest of the rules in this Constitution will start working on January 26, 1950. This date is called the start of this Constitution.

Explanation using Example

Example 1:

Ravi is a history teacher explaining the significance of Republic Day to his students. He tells them that the Constitution of India came into effect on January 26, 1950. He further explains that certain articles, including Article 394, were put into effect immediately when the Constitution was adopted, while the rest of the provisions came into force on January 26, 1950. This day is celebrated as Republic Day in India to mark the commencement of the Constitution.

Example 2:

Ananya, a law student, is preparing for her constitutional law exam. She comes across Article 394 and learns that it specifies the commencement dates of different parts of the Constitution. She understands that while most of the Constitution came into force on January 26, 1950, some articles, such as Article 5 (dealing with citizenship), Article 60 (oath of the President), and Article 324 (election commission), were effective immediately upon adoption. This helps her appreciate the phased approach taken by the framers of the Constitution to ensure a smooth transition to the new legal framework.

### **Article 394A: Authoritative text in the Hindi language.**

(1) The President shall cause to be published under his authority, -

(a) the translation of this Constitution in the Hindi language, signed by the members of the Constituent Assembly, with such modifications as may be

necessary to bring it in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in the Hindi language, and incorporating therein all the amendments of this Constitution made before such publication; and

(b) the translation in the Hindi language of every amendment of this Constitution made in the English language.

(2) The translation of this Constitution and of every amendment thereof published under clause (1) shall be construed to have the same meaning as the original thereof and if any difficulty arises in so construing any part of such translation, the President shall cause the same to be revised suitably.

(3) The translation of this Constitution and of every amendment thereof published under this article shall be deemed to be, for all purposes, the authoritative text thereof in the Hindi language.

### **Simplified act**

(1) The President must ensure that the following are published under his authority:

(a) A Hindi translation of this Constitution, signed by the members of the Constituent Assembly. This translation should be updated to match the language, style, and terms used in official Hindi versions of Central Acts and should include all amendments made to the Constitution before it is published.

(b) A Hindi translation of every amendment to this Constitution that was originally made in English.

(2) The Hindi translation of the Constitution and its amendments published under clause (1) should be understood to have the same meaning as the original English version. If there is any confusion about the meaning of any part of the Hindi translation, the President must ensure it is revised to clear up the confusion.

(3) The Hindi translation of the Constitution and its amendments published under this article will be considered the official and authoritative text in the Hindi language for all purposes.

Explanation using Example

Example 1:



Scenario: A law student named Priya is preparing for her constitutional law exam. She is more comfortable reading in Hindi than in English.

Application: Priya can refer to the Hindi translation of the Constitution of India, which is published under the authority of the President. This translation includes all amendments made to the Constitution up to the date of publication. The Hindi version is considered authoritative and has the same legal standing as the original English text.

Outcome: Priya can confidently study the Hindi version of the Constitution, knowing that it is an accurate and legally valid translation of the original English text.

#### Example 2:

Scenario: A lawyer named Rajesh is arguing a case in a court where the interpretation of a specific amendment to the Constitution is crucial. The amendment was originally drafted in English, but Rajesh's client is more comfortable with Hindi.

Application: Rajesh can present the Hindi translation of the amendment, which is published under the President's authority. If there is any confusion or difficulty in interpreting the Hindi translation, the President has the authority to revise it to ensure it accurately reflects the original English text.

Outcome: Rajesh can use the Hindi translation of the amendment in court, and it will be considered as authoritative as the original English version. This ensures that his client fully understands the legal arguments and implications.

#### Example 3:

Scenario: A government official named Anjali is tasked with drafting a new policy that aligns with a recent constitutional amendment. The amendment was published in English, but the official language of her office is Hindi.

Application: Anjali can refer to the Hindi translation of the amendment, which is published under the President's authority. This translation is deemed authoritative and has the same legal standing as the original English text.

Outcome: Anjali can draft the new policy in Hindi, ensuring it aligns with the constitutional amendment. She can be confident that the Hindi translation is legally valid and accurate.

#### Example 4:

Scenario: A citizen named Ramesh wants to file a public interest litigation (PIL) challenging a recent constitutional amendment. Ramesh is more proficient in Hindi than in English.

Application: Ramesh can refer to the Hindi translation of the Constitution and the specific amendment he wants to challenge. This translation is published under the President's authority and is considered authoritative.

Outcome: Ramesh can file his PIL using the Hindi translation of the amendment, knowing that it holds the same legal weight as the original English text. This ensures that he fully understands the legal basis of his challenge.

### **Article 395: Repeals.**

The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.

### **Simplified act**

The Indian Independence Act, 1947, and the Government of India Act, 1935, along with all laws that have changed or added to the Government of India Act, 1935, are now cancelled. However, this does not include the Abolition of Privy Council Jurisdiction Act, 1949, which remains in effect.

Explanation using Example

Example 1:

Scenario: A law student is researching the historical legal framework of India and comes across the Government of India Act, 1935.

Explanation: The student learns that the Government of India Act, 1935, was a significant piece of legislation that laid down the structure of government in British India. However, upon further research, the student discovers that Article 395 of the Constitution of India repealed this Act along with the Indian Independence Act, 1947. This means that these Acts are no longer in force and have been replaced by the provisions of the Constitution of India.

Example 2:

Scenario: A historian is writing a book on the transition of India from a British colony to an independent republic.

Explanation: The historian notes that the Indian Independence Act, 1947, was crucial in granting India independence from British rule. However, with the adoption of the Constitution of India on January 26, 1950, Article 395 repealed the Indian Independence Act, 1947. This signifies that the legal foundation of independent India is now based on its own Constitution, and the previous Acts that governed British India are no longer applicable.