

Executive of The States (Part 2)

Chief Minister and The State Council of Ministers:

- Chief Minister is the head of the State Council of Ministers.
- The Chief Minister is appointed by the Governor.
- The other Ministers are appointed by the Governor on the advice of Chief Minister.
- Any person may be appointed a Minister but he must become member of the legislature within six months of such appointment.
- The Council of Ministers is collectively responsible to the Legislative Assembly of the state but individually responsible to the Governor.
- The relation between the Governor and his Ministers is similar to that between the President and his Ministers.

The Advocate - General:

- Each state has an Advocate - General, an official corresponding to the Attorney - General of India and having similar functions for the State.
- He is appointed by the Governor of the state and holds office during the pleasure of the Governor.
- Only a person who is qualified to be a judge of a High Court can be appointed Advocate - General. He receives such remuneration as the Governor may determine.
- He has the right to speak and to take part in the proceedings of, but no right to vote in, the Houses of the Legislature of the state (Ref.: Art. 177).

The State Legislature:

- Some states have bi - cameral Legislature (having two Houses). The Seven States having two Houses are Andhra Pradesh, Telangana, Bihar, Karnataka, Maharashtra, Uttar Pradesh and Jammu & Kashmir.
- In the remaining States, the Legislature is unicameral and has the Legislative Assembly only.
- For creation or abolition of Legislative Council, the Legislative Assembly of the State should pass a resolution by a special majority followed by an Act of Parliament (Ref.: Art. 169).
- The size of the Legislative Council may vary, but its membership should not be more than 1/3 of the membership of the Legislative Assembly but not less than 40.
- Legislative Council is a partly nominated and partly elected body.
- Election to the Legislative Council is indirect and in accordance with proportional representation by single transferable vote.

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- 5/6 of the total number of members of the Council is indirectly elected and 1/6 is nominated by the Governor.
- 1/3 of the total members of the Council is elected by local bodies such as municipalities, district boards.
- 1/12 is elected by graduates of three years' standing residing in the State.
- 1/12 is elected by teachers of secondary schools or higher educational institutions.
- 1/3 is elected by members of the Legislative Assembly from amongst persons who are not members of the Assembly.
- The remainder is nominated by the Governor from persons specialised in literature, science, art, co-operative movement and social service.
- The Court cannot question the bona fides or propriety of the Governor's nomination in any case.
- The Legislative Assembly of each State is directly elected on the basis of adult suffrage from territorial constituencies.
- The Number of members of the Assembly cannot be more than 500 nor less than 60.
- The Assembly in Mizoram and Goa have only 40 members each. While the Assembly in Sikkim has only 32 members.
- Governor can nominate one member of the Anglo-Indian community in the Assembly (Ref.: Art. 333).
- The duration of the Legislative Assembly is five years. It may be dissolved sooner than five years, by the Governor.
- The term of five years may be extended by the Parliament in case of a Proclamation of Emergency by the President for not more than one year at a time (Ref.: Art. 172 (1)).
- Legislative Council is a permanent body like the Council of State (Rajya Sabha).
- The Legislative Council is not dissolved. One - third the members of Legislative Council retire on the ex of every second year (Ref.: Art. 172(2)).
- A Legislative Assembly has its Speaker and Dep Speaker and a Legislative Council has its Chairman and Deputy Chairman, and the provisions relating to them are analogous to those relating to the corresponding officers of the Union Parliament.

Qualifications for membership of State Legislature are:

- Should be a citizen of India;
- For Legislative Assembly, not less than twenty - five years of age and for Legislative Council not less than thirty years of age;
- Should possess other qualifications prescribed in that behalf by or under any law made by Parliament (Ref.: Art. 173).

Governor's Power of Veto:

- When a Bill is presented before the Governor after its approval by the Houses of the Legislature, the Governor can:
- Declare his assent to the Bill, in that case it would become law at once.
- Declare that he withholds his assent to the Bill, such a Bill fails to become a law.

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- Declare that he withholds his assent to the Bill (other than a Money Bill) and the Bill is returned with a message.
- Reserve a Bill for the consideration of the President. Such reserving is compulsory where the law in question would derogate from the powers of the High Court.

Power of Governor to Promulgate Ordinances

- The Governor can promulgate Ordinance only when the Legislature, or both Houses thereof, are not in session.
- It must be exercised with the aid and advice of the Council of Ministers.
- The Ordinance must be laid before the State Legislature when it reassembles.
- An Ordinance ceases to have effect after 6 weeks from the date of re - assembly, unless disapproved earlier by that Legislature.
- The Governor himself is competent to withdraw the Ordinance at any time.
- The scope of the Ordinance - promulgating power of Governor is confined to the subjects in Lists II and of the Seventh Schedule.
- Governor cannot promulgate Ordinances with instructions from the President if :
- A Bill containing the same provisions would require previous sanction of the President.

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