

The President and the Vice President

The President

The President is the head of the Indian Union and is the supreme commander of the defence forces of India.

Qualifications for Election to the Position of President

- He should be a citizen of India.
- He should have completed thirty-five years of age.
- He should be qualified for election as a member of the Lok Sabha.
- He should not hold any office of profit under the Government of India.

Election of the President

The President is elected indirectly by the members of the Electoral College. The Electoral College consists of

- The elected members of the Lok Sabha and the Rajya Sabha
- The elected members of the State Legislative Assemblies

It is to be noted that the nominated members of the Parliament and the State Legislative Assemblies are not part of the Electoral College.

For choosing the presidential candidate, the name of the candidate should be proposed by 50 members of the Electoral College and has to be agreed by another 50 members.

Manner of Election

The election of the President is held in accordance with the system of proportional representation by the means of single transferable vote. Efforts have been made to maintain uniformity in the scale of representation of different states:

- a. The voting power of an elected member of the Legislative Assembly is calculated in proportion to the total population of the state and the number of total elected members of the Legislative Assembly.
- b. The value of the vote of the members of the Parliament is obtained by dividing the total number of votes assigned to the MLAs of the state by the total number of members of the Parliament.

Single Transferable Vote System

- In the single transferable vote system, all candidates are first listed and the electoral gives preference to these candidates. For example, an electoral may give first preference to candidate A and second preference to candidate B.
- If a candidate gets absolute majority, he is declared as elected. If no candidate gets majority, the candidate who gets the least number of votes is eliminated. This process of elimination continues until a candidate gets an absolute majority.

Indirect Election

There are several reasons as to why the President is elected indirectly. These are

- The direct election of the President by the people of the country can make him a rival centre of power to the Council of Ministers.
- As mostly a party gets a majority in the Houses of the Parliament, election of the President by only the members of the Parliament could have made him a nominee of the ruling party. Then the President would not have been able to represent the states in India.
- The election of the President by an Electoral College consisting of the State Legislative Assemblies makes the President the elected representative of the whole nation.

The President takes the oath of office in the presence of the Chief Justice of India.

Term

The President is elected for a period of five years. He can hold office even after the expiry of his term as a President till the election of a new President.

Vacation of Office

- The President can resign by submitting his resignation letter to the Vice President.
- The President can be impeached or removed from his office for gross misconduct or for violating the Constitution.

Procedure for the Impeachment of the President

- For impeaching the President, a resolution can be moved after giving a fourteen days notice which should be signed by not less than one-fourth of the total number of the members of the House.
- The resolution should be passed by a majority of at least two-thirds of the total membership of the House.
- The charge is then investigated by the either House of the Parliament and the President can appear and get represented during such an investigation.
- If after investigations, a resolution is passed by a majority of not less than two-thirds members of both Houses of the Parliament, the President is impeached.

Powers and Functions of the President of India

Executive Powers

- **The President is the head of the Indian Union.** All executive orders are issued by the Prime Minister and his cabinet on the name of the President.
- All key appointments are made on the name of the President on the advice of the Prime Minister and his cabinet. The President appoints
 - The Prime Minister (the leader of the majority party in the Lok Sabha) and his Council of Ministers on the advice of the Prime Minister.
 - The Chief Justice and the judges of the Supreme Court and the High Courts.
 - The Governors of the states, Lt-Governors and the Chief Commissioners of the Union Territories.
 - The Attorney General, the Comptroller and the Auditor General of India.
 - The Chairman and the members of the Union Public Service Commission.
- **President's rule is imposed over states** if there is a breakdown of the state machinery or if no party is capable of proving its majority on the floor of the House.
- **Administration of the Union Territories and the border areas** is the responsibility of the President.

Diplomatic Powers

- The President appoints the Indian Ambassadors to the other countries.
- He receives ambassadors and diplomatic envoys from the other countries.
- All treaties and international agreements are concluded on the name of the President.
- The President represents the entire nation in international conferences.

Legislative Powers

- The President addresses both Houses of the Parliament for the first session held after the General Elections to the Lok Sabha.
- He has the power to send messages to both Houses of the Parliament related to any parliamentary matter (e.g. bills).
- The President has the power to summon and prorogue the houses of the Parliament.
- He can dissolve the Lok Sabha on the recommendations of the Prime Minister.
- The President nominates 12 members to the Rajya Sabha from among persons who have made great contributions to science, literature, social sciences, arts and sports.
- No bill can become a law until and unless it is signed by the President. The President can send the bill back to the House if he disagrees with any clause of the bill. However, when the bill comes to him for the second time, he has to sign it.
- An Ordinance can be promulgated by the President which has the same status as an Act of the Parliament.
 - The President can pass the Ordinance if he feels that circumstances are necessary for him to take immediate action.
 - The Ordinance can be passed even if no House of the Parliament is in session.
 - If the Parliament disapproves the Ordinance, it lapses. After the Ordinance is passed, it lapses after a period of six weeks. The Ordinance also lapses when it is replaced by an Act of the Parliament.
- The Governor may reserve some bills passed by the state for taking an opinion of the President. The President can send the bill back to the State Assembly for reconsideration.
- A bill dealing with the altering of state's boundaries and the formation of new states cannot be introduced without the recommendations of the President.

Financial Powers

- Money bills can originate in the Lok Sabha only on the recommendations of the President.
- The Annual Budget is placed by the Finance Minister in the Parliament on behalf of the President.
- The Annual Financial Statement is also laid before the Parliament at the beginning of the financial year on behalf of the President.
- Withdrawals from the Contingency Fund can be made after the approval of the President.

Military Powers

- The President is the supreme commander of the armed forces in India.
- He appoints the Chiefs of all the three wings of the Armed Forces on the recommendations of the Prime Minister and his Council of Ministers, the Parliament and the Military Secretary.

Judicial Powers

- The President is not answerable before any Court of Law for the exercise of powers and duties in his office.
- No criminal offences can be registered against him during his tenure as a President.
- The President has the power to grant pardon, reprieve, respite or commute the sentence of any person convicted for an offence.

Discretionary Powers

- The President can appoint the Prime Minister when there is a hung Parliament, i.e. where no single party gets a majority in the Lok Sabha.
- He can appoint the Prime Minister in case of his (Prime Minister) sudden death and the ruling party is unable to elect a leader.
- When the ruling party loses the majority in the Lok Sabha, the President may or may not dissolve the House on the recommendations of the Prime Minister. The former may ask the leader of the other party to prove their majority on the floor of the House.
- The President can dismiss ministers of the government if they lose the confidence of the House but refuse to resign.

Emergency Powers

The President can declare emergency in the following cases:

- **National Emergency:** If there is danger to the peace and security of the nation because of foreign aggression, civil war or insurgency.
- **Breakdown of Constitutional Machinery:** Emergency can be proclaimed in the state if the constitutional machinery of the state breaks down.
- **Financial Emergency:** If the financial stability or the credit of the country is threatened.

Emergency

Emergency can be declared by the President under three circumstances:

National or General Emergency

- Emergency can be declared if the President feels that the security of India is under threat either because of foreign aggression, civil war or armed rebellion.
- National emergency should be approved by both Houses of the Parliament within one month by special majority.
- The emergency cannot continue for more than one month. If the Lok Sabha does not approve the Proclamation of Emergency, the President has to annul his Proclamation.

Effects of National Emergency

- During a national emergency, the fundamental rights of the people are partially or wholly suspended. No person can move to the court for the enforcement of any rights except Articles 20 and 21.
- The states have to work according to the instructions of the central government and the country assumes unitary character.
- The central government may alter the distribution of revenues between the centre and the state and the salaries of parliamentarians can be reduced.
- The term of the Lok Sabha may be increased by a year during an emergency.
- National emergency was declared for the first time on 26 October 1962 when China launched an attack on India. Again, it was proclaimed on 3 December 1971 because of the threat caused by Pakistan's army.

Emergency Caused by Breakdown of Constitutional Machinery

- The Constitutional Emergency can be promulgated if the President receives reports from the Governor stating the inability of the state government to function according to the provisions of the Constitution.
- Under such circumstances, President's rule is imposed in the state.
- The duration of such an emergency is two months. In case the duration has to be increased, it has to be ratified by the Parliament. President's rule in the state can continue for a year.

Effects of Emergency in the State

- The administration of the state is carried out by the President, and the Governor has to follow the instructions of the Union Government.
- The President may dissolve the Lok Sabha and dismiss the Council of Ministers.
- The Parliament may pass laws even on subjects listed on the State List.
- When the Lok Sabha is not in session, the President may authorise expenditures out of the Consolidated Fund of the State.
- President's rule was proclaimed for the first time in Punjab in 1951.

Financial Emergency

- The President can declare financial emergency if he feels that the financial credibility or stability of the nation is in danger.
- Such an emergency is valid for two months unless it is further ratified by the Parliament.

Effects of Financial Emergency in the State

- The President appoints a Finance Commission to suggest ways to improve the financial condition of the country.
- The salaries and allowances of the government officers can be reduced by the President.
- All money bills passed by the Lok Sabha have to be submitted to the President for his approval.
- The President can issue instructions to the States in regard to the use of funds.
- Financial emergency has never been declared in the state.

Position of the President

- The President is the head of the Indian Union, but he has to act on the advice of the Prime Minister and the Council of Ministers.
- The President may send advices of the Prime Minister and his Council of Ministers for reconsideration. However, if he receives it back, the President has to act on the advice of the President.
- All the proclamations of Emergency which are issued by the President have to be approved by the Parliament.
- The President is the constitutional head of the country, but all decisions are taken by him on the advice of the Prime Minister and the Council of Ministers.
- The President occupies an important position in the country as executive powers of the Union is vested in him and is exercised by him directly or through officers subordinate to him.
- The President has the right to be informed on all important matters. When no party gets a majority in the Lok Sabha, he can use his discretion in appointing the Prime Minister in accordance with the provisions of the Constitution.

The Vice President

The Vice President is the ex-officio Chairman of the Rajya Sabha.

Qualifications for Election to the Position of the Vice President

- He should be a citizen of India.
- He should have completed thirty-five years of age.
- He should be qualified for elections as a member of the Council of states.
- He should not hold any office of profit under the Government of India.

Election of the Vice President

- The Vice President is elected by the members of the Electoral College consisting of the members of both Houses of the Parliament. The election is held in accordance with the system of proportionate representation by the means of a single transferable vote.
- The voting of the Vice President takes place by secret ballot.

Term of Office

- The Vice President holds office for a term of five years.
- He may resign from his office by submitting a written application to the President.
- He can be removed from the office by the process of impeachment for violating the terms of the Constitution.

Powers and Functions of the Vice President

- The Vice President is the ex-officio Chairman of the Rajya Sabha. He may suspend and adjourn the business of the House in case of grave disorder. He regulates the debates and the proceedings of the House.
- The Vice President can take over the position of the President under the following circumstances:
 - In case of the death of the President
 - In case of the resignation of the President
 - In case of the impeachment of the President
 - When the President is not able to discharge his duties owing to his absence, illness or because of any other causes.
 - In case of impeachment or the death of the President, the Vice President acts as President till the new President is elected.