

72 Election Laws

REPRESENTATION OF THE PEOPLE ACT, 1950

Articles 81 and 170 of the Constitution of India lay down the maximum number of seats in Parliament and in Legislative Assemblies of States and also certain principles to be followed in allocating seats in the House of People among the States and in the State Legislative Assemblies, but have left the actual allocation of such seats to be provided by the law.

Similarly, Article 171 of the Constitution of India lays down the maximum and minimum number of seats in the Legislative Council of a State, and also specify the various methods in which the seats shall be filled, but the actual number of seats to be filled by each such method has been left to be provided by law.

Therefore, the Representation of the People Act, 1950, was enacted to provide for the allocation of seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.

The Act also sought to confer on the President the powers to delimit, after consultation with the Election Commission, the various constituencies for the purpose of elections to fill seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.

The Act further provided for the registration of electors for Parliamentary Constituencies and for the Assembly and Council Constituencies, and the qualifications and disqualifications for such registration.

To sum-up, the Act makes the following provisions relating to the elections:

1. Allocation of seats in the House of the People, the State Legislative Assemblies and the State Legislative Councils.
2. Delimitation of Parliamentary, Assembly and Council Constituencies.

3. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
4. Electoral rolls for Parliamentary, Assembly and Council constituencies.
5. Manner of filling seats in the Council of States to be filled by representatives of union territories.
6. Local authorities for purposes of elections to the State Legislative Councils.
7. Barring the jurisdiction of civil courts.

REPRESENTATION OF THE PEOPLE ACT, 1951

The Representation of the People Act, 1950 did not contain all the provisions relating to elections but merely provided for the allocation of seats in and the delimitation of constituencies for the purpose of elections to the House of People and Legislatures of States, the qualifications of voter at such election and the preparations of electoral rolls.

The provisions for the actual conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for the membership of these Houses, the corrupt practices and other election offences, and the decision of election disputes were all left to be made in a subsequent measure. In order to provide for these provisions, the Representation of the People Act, 1951 was enacted.

Broadly speaking, this Act contains provisions relating to the following electoral matters:

1. Qualifications and disqualifications for membership of Parliament and State Legislatures
2. Notification of general elections
3. Administrative machinery for the conduct of elections
4. Registration of political parties
5. Conduct of elections
6. Free supply of certain material to candidates of recognised political parties
7. Disputes regarding elections
8. Corrupt practices and electoral offences
9. Powers of Election Commission in connection with inquiries as to disqualifications of members.
10. Bye-elections and time limit for filling vacancies.
11. Miscellaneous provisions relating to elections.
12. Barring the jurisdiction of civil courts.

The conduct of elections include the following matters:

- (a) Nomination of candidates
- (b) Candidates and their agents
- (c) General procedure at elections

- (d) The poll
- (e) Counting of votes
- (f) Multiple elections
- (g) Publication of election results and nominations
- (h) Declaration of assets and liabilities
- (i) Election expenses

The provisions of the Act with respect to disputes regarding elections are related to the following matters:

- (i) Presentation of election petitions to High Court
- (ii) Trial of election petitions
- (iii) Withdrawal and abatement of election petitions
- (iv) Appeals to Supreme Court
- (v) Costs and security for costs

DELIMITATION ACT, 2002

Articles 82 and 170 of the Constitution of India provide for readjustment and the division of each State into territorial constituencies (Parliamentary constituencies and Assembly constituencies) on the basis of the 2001 census by such authority and in such manner as Parliament may, by law, determine.

Further, Articles 330 and 332 of the Constitution of India provide for re-fixing the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the House of the People and Legislative Assemblies of the States on the basis of the 2001 census.

The present delimitation of Parliamentary and Assembly constituencies is based on the 1971 census. The uneven growth of population in different constituencies in different parts of the country as well as within the same State as also continuous migration of people / electorate from one place to other especially from rural areas to urban areas have resulted in strikingly differing sizes of electoral constituencies even within the same State.

Therefore, the Delimitation Act, 2002¹, was enacted to set up a Delimitation Commission for the purpose of effecting delimitation on the basis of the 2001 census so as to correct the aforesaid distortion in the sizes of electoral constituencies. The proposed Delimitation Commission would also re-fix the number of seats for the Scheduled Castes and the Scheduled Tribes on the basis of the 2001 census, without affecting total number of seats based on the 1971 census.

The Act sought to lay down certain guidelines as to the manner in which such delimitation would be undertaken. In the Act, the new Delimitation Commission was given the task of carrying out delimitation of Parliamentary and Assembly constituencies. It had been specifically provided that the Delimitation Commission shall endeavour to complete the work within a period not later than July 31, 2008.²

The proposed delimitation would apply to every general election to the House of the People or to a State Legislative Assembly held after the final orders of the Commission are

published and to every bye-election arising from such general election³.

OTHER ACTS RELATING TO ELECTIONS

1. Parliament (Prevention of Disqualification) Act, 1959⁴ declares that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as (or for being) members of Parliament.
2. Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 provides for the inclusion in, and the exclusion from, the lists of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, for the readjustment of representation of parliamentary and assembly constituencies.
3. Government of Union Territories Act, 1963.
4. Government of National Capital Territory of Delhi Act, 1991.
5. Presidential and Vice-Presidential Elections Act, 1952⁵ regulates certain matters relating to or connected with elections to the offices of the President and Vice-President of India.

RULES RELATING TO ELECTIONS

1. Registration of electors Rules, 1960⁶ provide for the preparation and publication of electoral rolls.
2. Conduct of Elections Rules, 1961⁷ facilitates conduct of fair and free elections to the Parliament and State Legislatures.
3. Prohibition of Simultaneous Membership Rules, 1950.
4. Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.
5. Members of Rajya Sabha (Disqualification on Ground of Defection) Rules, 1985.
6. Presidential and Vice-Presidential Elections Rules, 1974.⁸
7. Members of Lok Sabha (Declaration of Assets and Liabilities) Rules, 2004.
8. Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules, 2004.

ORDERS RELATING TO ELECTIONS

1. Election Symbols (Reservation and Allotment) Order, 1968 provides for the specification, reservation, choice and allotment of symbols at elections in parliamentary and assembly constituencies, for the recognition of political parties in relation thereto.
2. Registration of Political Parties (Furnishing of Additional Particulars) Order, 1992 provides for furnishing of additional particulars by associations or bodies of individual citizens of India seeking registration as a political party with the Election Commission of India.

NOTES AND REFERENCES

1. The Delimitation Act (2002) was amended in 2003, 2008 and 2016.
2. Originally, the Act provided for a period of two years.
3. Earlier, the Delimitation Acts were enacted in 1952, 1962 and 1972.
4. This Act repealed the three earlier Acts, namely, the Parliament (Prevention of Disqualification) Act, 1950; the Parliament (Prevention of Disqualification Act, 1951; and the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953.
5. This Act was amended in 1974, 1977 and 1997.
6. Earlier, the Rules in this regard were made in 1950 and 1956. Both the earlier Rules were known by the same nomenclature i.e., the Representation of the People (Preparation of Electoral Rolls) Rules.
7. Earlier, the Rules in this regard were made in 1951 and 1956. Both the earlier Rules were known by the same nomenclature i.e., the Representation of the People (Conduct of Elections and Election Petitions) Rules.
8. These Rules repealed the earlier Presidential and Vice-Presidential Elections Rules, 1952.