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Department of Employment and Training

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SCHEDULES TO THE CONSTITUTION

Schedules are lists in the constitution which categorise and tabulate bureaucratic activity and government policy. Indian Constitution originally had eight schedules. Four more schedules were added by different amendments, now making a total of twelve.

Numbers	Subject Matter	Articles Covered
First Schedule	1. Names of the States and their territorial jurisdictions. 2. Name of the Union Territories and their extent.	1 to 4
Second Schedule	Provisions relating to the emoluments, allowances, privileges and so on of: 1. The President and the Governors of the States 2. The Speaker and the Deputy Speaker of the Lok Sabha 3. The Chairman and the Deputy Chairman of the Rajya Sabha 4. The Speaker and the Deputy Speaker of the Legislative Assemblies in the States. 5. The Chairman and the Deputy Chairman of the Legislative Councils in the States 6. The Judges of the Supreme Court and of the High Courts 7. The Comptroller and Auditor-General of India	59, 65, 75, 97, 125, 148, 158, 164, 186 & 221



Third Schedule	Forms of the Oaths or Affirmations for: 1. The Union Ministers 2. The candidates for election to the Parliament 3. The Members of the Parliament 4. The Judges of the Supreme Court 5. The Comptroller and Auditor General of India 6. The State Ministers 7. The candidates for election to the State Legislature 8. The members of the State Legislature 9. The Judges of the High Courts	75, 84, 99, 124, 146, 173, 188 and 219
Fourth Schedule	Allocation of the seats in the Rajya Sabha to the States and the Union Territories.	4 and 80
Fifth Schedule	Provisions relating to the administration and the control of the Scheduled Areas and the Scheduled Tribes.	244
Sixth Schedule	Provisions relating to the administration of the Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.	244 and 275
Seventh Schedule	Division of the powers between the Union and the States in terms of List I (Union List), List II (States List), List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47)	246

Eighth Schedule	Includes the languages recognised by the Constitution. Originally, it had 14 but presently there are 22 languages, they are: Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21 st Amendment Act of 1967. while Konkani, Manipuri and Nepali were added by the 71 st Amendment Act of 1992. The 92nd Amendment Act, 2003 added Bodo, Dogri, Maithili and Santhali	344 and 351
Nineth Schedule	Validation of certain Acts and regulations, mostly relating to the land reforms. There are 284 such Acts. This Schedule was added to the Constitution by the First Amendment Act of 1951 which provided that by incorporating any law into it. The State would make it immune from judicial scrutiny.	31 – B
Tenth Schedule	Provisions relating to the disqualification of the legislators on grounds of defection. This Schedule was added by the 52 nd Amendment Act of 1985. It is also known as the Anti-defection Law.	102 and 191
Eleventh Schedule	Specifies the powers authority and the responsibilities of the Panchayats. It has 29 matters. This schedule was added by the 73 rd Amendment Act of 1992.	243 – G
Twelfth Schedule	Specifies the power. authority and the responsibilities of the Municipalities. It has 18 matters. This Schedule was added by the 74 th Amendment Act of 1992.	243 – W

◆.....◆ **TENTH SCHEDULE: - ANTI-DEFECTION LAW**

The 52nd Amendment Act of 1985 provided for the disqualification of the members of Parliament and the state legislatures on the ground of defection from one political party to another.

For this purpose, it made changes in four Articles 1 of the Constitution and added a new Schedule (the Tenth Schedule) to the Constitution. This act is often referred to as the 'anti-defection law'.

Later, the 91st Amendment Act of 2003 made one change in the provisions of the Tenth Schedule. It omitted an exception provision i.e., disqualification on ground of defection not to apply in case of split.

Provisions of the Act

The Tenth Schedule contains the following provisions with respect to the disqualification of members of Parliament and the state legislatures on the ground of defection:

1. Disqualification

Members of Political Parties:

A member of a House belonging to any political party becomes disqualified for being a member of the House,

- (a) if he voluntarily gives up his membership of such political party; or
- (b) if he votes or abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within 15 days.

From the above provision it is clear that a member elected on a party ticket should continue in the party and obey the party directions.

Independent Members: An independent member of a House (elected without being set up as a candidate by any political party) becomes disqualified to remain a member of the House if he joins any political party after such election.

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Nominated Members:

A nominated member of a House becomes disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat in the House.

This means that he may join any political party within six months of taking his seat in the House without inviting this disqualification.

2. Exceptions

The above disqualification on the ground of defection does not apply in the following two cases:

- a) If a member goes out of his party as a result of a merger of the party with another party. A merger takes place when two-thirds of the members of the party have agreed to such merger.
- b) If a member, after being elected as the presiding officer of the House, voluntarily gives up the membership of his party or re-joins it after he ceases to hold that office.

This exemption has been provided in view of the dignity and impartiality of this office. It must be noted here that the provision of the Tenth Schedule pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted by the 91st Amendment Act of 2003. It means that the defectors have no more protection on grounds of splits.

3. Deciding Authority

Any question regarding disqualification arising out of defection is to be decided by the presiding officer of the House. Originally, the act provided that the decision of the presiding officer is final and cannot be questioned in any court.

However, in *Kihoto Hollohan* case (1993), the Supreme Court declared this provision as unconstitutional on the ground that it seeks to take away the jurisdiction of the Supreme Court and the high courts. It held that the presiding officer, while deciding a question under the Tenth Schedule, function as a tribunal.

Hence, his decision like that of any other tribunal, is subject to judicial review on the grounds of *mala fides*, perversity, etc. But the court rejected the contention that the vesting of adjudicatory powers in the presiding officer is by itself invalid on the ground of political bias.

4. Rule-Making Power

The presiding officer of a House is empowered to make rules to give effect to the provisions of the Tenth Schedule. All such rules must be placed before the House for 30 days. The House may approve or modify or disapprove them.

- Further, he may direct that any willful contravention by any member of such rules may be dealt with in the same manner as a breach of privilege of the House.
- According to the rules made so, the presiding officer can take up a defection case only when he receives a complaint from a member of the House.
- Before taking the final decision, he must give the member (against whom the complaint has been made) a chance to submit his explanation.
- He may also refer the matter to the committee of privileges for inquiry. Hence, defection has no immediate and automatic effect.

91st AMENDMENT ACT (2003)

Provisions

The 91st Amendment Act of 2003 has made the following provisions to limit the size of Council of Ministers, to debar defectors from holding public offices, and to strengthen the anti-defection law:

1. The total number of ministers, including the Prime Minister, in the Central Council of Ministers shall not exceed 15 per cent of the total strength of the Lok Sabha (Article 75).
2. A member of either House of Parliament belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister (Article 75).
3. The total number of ministers, including the Chief Minister, in the Council of Ministers in a state shall not exceed 15 per cent of the total strength of the Legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than 12 (Article 164).
4. A member of either House of a state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister (Article 164).

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5. A member of either House of Parliament or either House of a State Legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to hold any remunerative political post.

The expression “remunerative political post” means

- i. Any office under the Central Government or a state government where the salary or remuneration for such office is paid out of the public revenue of the concerned government; or
- ii. Any office under a body, whether incorporated or not, which is wholly or partially owned by the Central Government or a state government and the salary or remuneration for such office is paid by such body, except where such salary or remuneration paid is compensatory in nature (Article 361-B).

6. The provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted. It means that the defectors have no more protection on grounds of splits.

EIGHTH SCHEDULE: - OFFICIAL LANGUAGE

Committee of Parliament on Official Language:

The Official Language Act (1963) provided for the setting up of a Committee of Parliament on Official Language to review the progress made in the use of Hindi for the official purpose of the Union.

Under the Act, this Committee was to be constituted after ten years of the promulgation of the Act (i.e., 26th January, 1965). Accordingly, this Committee was set up in 1976. This Committee comprises of 30 members of Parliament, 20 from Lok Sabha and 10 from Rajya Sabha.

The Act contains the following provisions relating to the composition and functions of the committee:

1. After the expiration of ten years from the date on which the Act comes into force, there shall be constituted a Committee on Official Language, on a resolution to

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that effect being moved in either House of Parliament with the previous sanction of the President and passed by both Houses.

2. The Committee shall consist 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.
3. It shall be the duty of the Committee to review the progress made in the use of Hindi for the official purposes of the Union and submit a report to the President making recommendations thereon and the President shall cause the report to be laid before each House of Parliament and sent it to all the State Governments.
4. The President may, after consideration of the report, and the views, expressed by the State Governments there on, issue directions in accordance with the whole or any part of the report.

The Chairman of the Committee is elected by the members of the Committee. As a convention, the Union Home Minister has been elected as Chairman of the Committee from time to time.

The Committee is required to submit its report along with its recommendations to the President after reviewing the position regarding the use of Hindi in Central Government Offices on the basis of its observations.

Apart from adopting other methods for assessing the factual position, the Committee decided to inspect certain Central Government offices representing various fields of activities to motivate the Central Government offices to adopt maximum usage of Hindi so that the objectives of the Constitution and Official Language Act provisions could be achieved.

With this end in view, the Committee set up three sub-Committees and for the purpose of inspection by the three sub-Committees, the various Ministries/Departments etc. were divided into three different groups.

The Secretariat of the Committee is headed by the Secretary of the Committee. The Secretary is assisted by the officers of the level of Under Secretary and other officials.

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They extend all required assistance in performing the various activities of the Committee.

For administrative purposes, this office is subordinate office of Department of Official Language, Ministry of Home Affairs.

SPECIAL DIRECTIVES

The Constitution contains certain special directives to protect the interests of linguistic minorities and to promote the development of Hindi language.

There are:

Protection of Linguistic Minorities

In this regard, the Constitution makes the following provisions:

1. Every aggrieved person has the right 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. This means that a representation cannot be rejected on the ground that it is not in the official language.
2. Every state and a local authority in the state should provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups. The president can issue necessary directions for this purpose.
3. The president should appoint a special officer for linguistic minorities to investigate all matters relating to the constitutional safeguards for linguistic minorities and to report to him. The president should place all such reports before the Parliament and send to the state government concerned.

Development of Hindi Language

The Constitution imposes a duty upon the Centre to promote the spread and development of the Hindi language so that it may become the *lingua franca* of the composite culture of India.

Further, the Centre is directed to secure the enrichment of Hindi by assimilating the forms, style and expressions used in Hindustani and in other languages specified in the Eighth Schedule and by drawing its vocabulary, primarily on Sanskrit and secondarily on other languages.

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At present (2016), the Eighth Schedule of the Constitution specifies 22 languages (originally 14 languages).

These are Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu.

- Sindhi was added by the 21st Amendment Act of 1967;
- Konkani, Manipuri and Nepali were added by the 71st Amendment Act of 1992; and
- Bodo, Dongri, Maithili and Santhali were added by the 92nd Amendment Act of 2003.

In terms of the Constitution provisions, there are two objectives behind the specification of the above regional languages in the Eighth Schedule:

- a) The members of these languages are to be given representation in the Official Language Commission; and
- b) The forms, style and expression of these languages are to be used for the enrichment of the Hindi language.

Questions:

1. Explain Anti-defection Law?
2. Discuss in detail about the Eighth Schedule?