

## EXTRACTS FROM THE REPRESENTATION OF PEOPLE ACT, 1951

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# **EXTRACTS FROM THE REPRESENTATION OF PEOPLE ACT, 1951**

## **CHAPTER III**

### **Disqualifications for Membership of Parliament and State Legislatures**

#### **7. Definition—In this Chapter—**

- (a) “Appropriate Government” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the Government;
- (b) “disqualified” means disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

#### **8. Disqualification on conviction for certain offences—(1) A person convicted of an offence punishable under—**

- (a) Section 143-A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or Section 171-E (offence of bribery) or Section 171-F (offence of under influence or personation at an election) or sub-section (1) or sub-section (2) of Section 376 or Section 376-A or Section 376-B or Section 376-C or Section 376-D (offences relating to rape) or Section 498-A (offences of cruelty towards of women by husband or relative of a husband) or sub-section (2) or sub-section (3) of Section 505 (offence of making statement creating or promoting enmity or ill-will between classes or offence relating such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or
- (b) the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of “untouchability” and for the enforcement of any disability arising therefrom; or
- (c) Section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or
- (d) Sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
- (e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or
- (f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

- (g) Section 3 (offence of committing terrorist acts) or Section 4 (offence of committing disruptive activities) or the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
  - (h) Section 7 (offence of contravention of the provisions of Sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
  - (i) Section 125 (offence of promoting enmity between classes in connection with the election) or Section 135 (offence of removal of ballot papers from polling stations) or Sections 135-A (offence of booth capturing) or clause (a) of sub-section (2) of Section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act, shall be disqualified for a period of six years from the date of such conviction.
- (2) A person convicted for the contravention of—
- (a) any law providing for the prevention of hoarding or profiteering; or
  - (b) any law relating to the adulteration of food or drugs; or
  - (c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961); or
  - (d) any provisions of the Commission of Sati (prevention) Act, 1937 (3 of 1988) and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.
- (3) A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.
- (4) Notwithstanding anything [in sub-section (1), sub-section (2) and sub-section (3)] a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from date, or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the Court.

*Explanation*—In this section—

- (a) "law providing for the prevention of the hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—
  - (i) the regulation of production or manufacture of an essential commodity,
  - (ii) the control of price at which any essential commodity may be bought or sold,
  - (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity,

- (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;
- (b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);
- (c) "essential commodity" has the meaning assigned to it in the Essential Commodities Act, 1955 (10 of 1955);
- (d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).

**8-A. Disqualification on ground of corrupt practices—**(1) The case of every person found guilty of a corrupt practice by an order under Section 99 shall be submitted, as soon as may be after such order takes effect, by such authority as the Central Government may specify in the behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period :

Provided that the period of which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to under Section 99 takes effect.

- (2) Any person who stands disqualified under Section 8-A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.
- (3) Before giving this decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.

**9. Disqualification for dismissal for corruption or disloyalty—**(1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

- (2) For the purpose of sub-section (1) a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact :

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

**9-A. Disqualification for Government contracts, etc.**—A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any work undertaken by, the Government.

*Explanation*— For the purpose of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

**10. Disqualification for office under Government company**—A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent share.

**10-A. Disqualification for failure to lodge account of election expenses—If the Election Commission is satisfied that a person—**

- (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and
- (b) has not good reason or justification for the failure.

The Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

**11. Removal or reduction of period of disqualification**—The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter (except under Section 8-A) or reduce the period of any such disqualification.

#### CHAPTER IV

#### DISQUALIFICATIONS FOR VOTING

**11-A. Disqualification arising out of conviction and corrupt practices**—(1) If any person, after the commencement of this Act—

\*\*\* is convicted of an offence punishable under Section 171-E or Section 171-F of the Indian Penal Code (45 of 1860), or under Section 125 or Section 135 or Clause (a) of sub-section (2) of Section 136 of this Act. \*\*\*

he shall, for a period of six years from the date of the convictions or from the date on which the order takes effect, be disqualified for voting at any election.

(2) Any person disqualified by a decision of the President under sub-section (1) of Section 8-A for any period shall be disqualified for the same period for voting at any election.

(3) The decision of the President on a petition submitted by any person under sub-section (2) of Section 8-A in respect of any disqualification for being chosen, as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under (b) of sub-section (1) of Section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), as if such decision were a decision in respect of the said disqualification for voting also.

**11-B. Removal of disqualification—**The Election Commission may, for reasons to be recorded, remove. [ any disqualification under sub-section (1) of Section 11-A)].