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## **SUMMONING AND PROROGATION OF BOTH HOUSES OF PARLIAMENT AND DISSOLUTION OF LOK SABHA**

### **BACKGROUND**

#### **Summoning**

Article 85(1) of the Constitution empowers the President to summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one Session and the date appointed for its first sitting in the next Session. [Notwithstanding outer limit laid down in article 85, the Parliament may have to be called before 31 March in order to pass at least a Vote on Account to carry on the administration as no money can be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with article 114(3). Besides, articles 352(4 &8), article 356(3) and article 360(2)(c) lay down certain time limits for summoning the Houses of Parliament.] The President exercises the power to summon the Houses on the recommendation of the Prime Minister or the Cabinet.

Normally, three Sessions, namely the Budget, Monsoon and Winter Sessions, are held in a calendar year. The question of having more or less fixed dates for the commencement of the three Sessions was considered by the General Purpose Committee of the Lok Sabha at their sitting held on 22 April, 1955, and they recommended the following time-table for the three Sessions:

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<u>Session</u>	<u>Date of Commencement</u>	<u>Date of Termination</u>
Budget Session	1 February	7 May
Autumn Session	15 July	15 September
Winter Session	5 November or the fourth day after Diwali, whichever is later	22 December

The Cabinet agreed with these recommendations. The above timetable has not, however, been observed in practice. Sessions have commenced on different dates though more or less in the specified months, and the duration has varied according to the volume of business conducted by the Houses\*.

Rule 33 of the Rules of Procedure and Conduct of Business in Lok Sabha provides that 'unless the Speaker otherwise directs, not less than ten and not more than twenty-one clear days' notice of a question shall be given.' Rule 39 of the Rules of Procedure and Conduct of Business in the Rajya Sabha provides that 'unless the Chairman otherwise directs, not less than fifteen clear days' notice of a question shall be given. 'There is no maximum limit, in terms of days, for tabling notice of a question in the Rajya Sabha. Therefore, in order to provide 21 clear days for tabling the questions by the Members of Lok Sabha, it is, as far as possible, ensured that all procedural formalities for convening the Sessions are completed and summons are issued to the members at least 21 clear days before the proposed date of commencement of the Session. This is, however, not always possible and there are several instances when the summons to members have been issued at an interval of less than 21 clear days (**Annex III-A**). After general election, owing to paucity of time the two Houses are normally convened at an interval of two to seven days. (The VI Lok Sabha was constituted on 23 March, 1977. The summons regarding the first session of the XIII Lok Sabha scheduled to commence on 20 October, 1999 were issued on 16 October, 1999; refer **Annex III-A**).

It is not necessary that the Lok Sabha and Rajya Sabha should be summoned simultaneously or on the same date. (First Session of two Houses convened after constitution of new Lok Sabha are normally summoned on different dates.)

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\**Practice and Procedure of Parliament (Fifth Edition)* (pp. 173-74).

### **Summoning of Houses for Joint Sitting**

Under article 108 of the Constitution, the President may call a joint sitting of both Houses if a Bill passed by one House and transmitted to the other House:

- (a) is rejected by the other House; or
- (b) the Houses have finally disagreed to the amendments to be made in the Bill; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it.

In the past, joint sittings of the Houses have been convened on three occasions under this provision (**Annex III- B**).

### **PROCESS**

The process for summoning the Houses *inter alia* involves the following steps:

- (a) To obtain the approval of the Cabinet to the date of commencement and duration of the Session. In case of first Session after general election and first Session of the year, approval is obtained for the time, date of the President's address to the two Houses assembled together;
- (b) To obtain a copy of the minutes of the meeting of the Cabinet in which approval was accorded to the above proposals; where, however, there is urgency, may be deputed necessary authority from the Cabinet Secretariat in this regard;
- (c) To obtain the approval of the President to the date of commencement of the Session and where necessary, the venue, date and time of the President's address;
- (d) To inform the Secretary-Generals of the Lok Sabha and Rajya Sabha Secretariats about the date(s) of commencement of the Session and its duration and where necessary, venue, date and time of the President's address and also that the President has accorded his approval thereto. The Cabinet Secretary and Secretary to the President to be endorsed copies of such communications for information.

About 45 days before the probable date of the Session, a Note for consideration of the Cabinet *inter aila* indicating the proposed date of the commencement and duration of the Session and, where necessary, proposed time and date of the President's Address is prepared and, after obtaining the approval of the Minister of Parliamentary Affairs, the requisite number of copies thereof (at present 55 copies) are sent to the Cabinet Secretariat. The following points are taken into consideration in preparation of the 'Note for the Cabinet':

- (a) Bills pending in two Houses on the conclusion of the last Session of Parliament and Ordinances promulgated, if any, during the inter-session period, which may have to be passed by the two Houses during the ensuing Session.
- (b) Financial Business to be taken up during the Session, if any.
- (c) Time bound essential non-legislative business, if any, e.g. Confidence Motion, consideration and adoption of Resolution regarding President's Rule in any State etc.
- (d) Number of sittings of corresponding Sessions of Parliament held during the last five years and average number of sittings of a Session. (For a proposal to convene the Budget Session, the number of sittings of Budget Sessions held during the last five years and the number of sittings of a Budget Session, on an average, are kept in view.)
- (e) Date and time of the President's Address, in case of first Session after general election or /and first Session of every calendar year.
- (f) Need to set apart some time for discussion on matters of urgent public importance likely to be moved by members.
- (g) Election for State Legislative Assemblies, if any, during or before the proposed dates of the Session.

After the Cabinet has approved the proposal of the Ministry with or without amendment, the Ministry waits for the receipt of the minutes of the meeting of the Cabinet in the normal course. In case of urgency, the Cabinet Secretariat is formally requested, immediately after the meeting, to give an authority as soon as possible to the effect that the proposal of the Ministry has been

approved by the Cabinet, with or without any change in the dates etc., to enable it to take further necessary action in the matter immediately.

On receipt of the minutes of the meeting or requisite authority from the Cabinet Secretariat, a note from the Minister of Parliamentary Affairs to the Hon'ble President containing the proposal approved by the Cabinet is submitted for approval and signature of the Minister (**Annex III-C**). The Note, as duly signed by the Minister, is sent in a sealed cover to the President's Secretariat along with a copy each of the "Note for the Cabinet" as considered in the meeting and 'minutes/authority' received from the Cabinet Secretariat. After delivery of the note in the President's Secretariat, the Ministry keeps in touch with the concerned branch/officers in the Secretariat, and in case of delay, efforts, preferably at Secretary level, are made to expedite the approval. After receipt of President's approval to the proposal, Secretary-Generals of the Lok Sabha and Rajya Sabha are informed of the Government's decision in the matter through a letter from the Secretary, Ministry of Parliamentary Affairs (**Annexes III-D & E**). Further necessary action in the matter including notifying the dates of the Session and issue of summons to Members of the two Houses is taken by the respective Parliament Secretariat after obtaining approval of the Hon'ble President.

### **Summoning of Joint Sitting of two Houses**

The administrative Ministry concerned with the Bill, after obtaining the approval of the Prime Minister, requests the Ministry of Parliamentary Affairs to take necessary action for convening the joint sitting of the Houses for the purpose of deliberation on the Bill. In case the administrative Ministry approaches the Ministry in the matter without obtaining the approval of the Prime Minister, the Ministry takes the approval of the Prime Minister for the purpose. Thereafter, a note from the Minister of Parliamentary Affairs *inter alia* indicating the purpose and date on which the two Houses are proposed to be summoned for joint sitting is submitted to the President for taking his approval to the proposal (**Annex III-F**). Along with the note, draft Messages to be sent by him to the two Houses in this regard are also enclosed for his approval and signature. The Order of

the President, when received, is sent by the Minister of Parliamentary Affairs to the Presiding Officers of the two Houses for summoning the two Houses for a joint sitting on the date(s) as approved by the President (**Annexes III-G & H**). The presidential Message sent to the Presiding Officers of the Houses only mentions the date of joint sitting leaving the duration of the joint sitting to the discretion of the Speaker, Lok Sabha, who presides over the joint sitting of the two Houses.

### **DECISIONS**

Earlier, the approval of the Cabinet Committee on Parliamentary Affairs (CCPA), except when it had not been constituted, used to be obtained to the proposals regarding the commencement and duration of the Sessions. However, at such times, when the Cabinet Committee on Parliamentary Affairs had not been constituted, the approval of the Cabinet was obtained to the proposal. Such occasions were, however, very few and far between. Normally, occasions of this nature arose in respect of Sessions convened immediately after constitution of new Lok Sabha/formation of new Ministry as by that time the Cabinet Committee on Parliamentary Affairs is normally not constituted.

However, since the Budget Session, 1999 of Parliament, such proposals are sent to the Cabinet for approval.

### **PROROGATION OF THE HOUSES**

#### **BACKGROUND**

Under Article 85(2) of the Constitution, the President may from time to time prorogue Houses or either House of Parliament. Termination of a session of the House by an Order by the President under the above constitutional provision is called 'prorogation'. Prorogation normally follows the adjournment of the sitting of the House *sine die*. The time-lag between the adjournment of the House *sine die* and its prorogation is generally two to four days, although there are instances when the House was prorogued on the same day on which it was adjourned *sine die*. It is also not necessary that the two Houses are prorogued on the same day. There have been instances when one House

was prorogued on its adjournment *sine die* while the other House was not prorogued on its adjournment *sine die*. (141st Session of Rajya Sabha which commenced on 23 February, 1987 was adjourned *sine die* on 20 March, 1987 and was prorogued on 24 March, 1987. However, the Eighth Session of the VIII Lok Sabha which commenced on 23 February, 1987 was adjourned *sine die* on 12 May, 1987. The Speaker, exercising his powers under proviso to Rule 15, reconvened the sittings of the Lok Sabha from 27 July to 28 August, 1987, with the result that its Eighth Session which commenced on 23 February, 1987 continued till 3 September, 1987 and the House was not prorogued during the period of adjournment. The Lok Sabha was prorogued on 3 September, 1987.)

#### **PROCEDURE**

Either a day before or on the day when the Houses are scheduled to adjourn *sine die* on the conclusion of their Session, a Note for the Cabinet Committee on Parliamentary Affairs *inter alia* proposing that the Houses which are scheduled to adjourn *sine die* on the following day/same day, may be prorogued on their adjournment *sine die*, is submitted for the approval of the Minister of Parliamentary Affairs. After the approval of the Minister, the approval of the CCPA to the proposal contained in the Note is normally obtained through circulation of papers. In case the CCPA has not been constituted by that time, a Note containing the proposal on the above lines, after it has been approved by the Minister, is submitted to the Prime Minister soliciting his approval to the proposal (**Annex III-I**). After the CCPA/Prime Minister, as the case may be, has accorded his approval to the proposal, the Secretary, Ministry of Parliamentary Affairs, through a letter, communicates the decision of the Government in the matter to the Secretary-Generals of the two Houses. (**Annexes III-J & K**). The two Parliament Secretariats then separately obtain the approval of the President to the proposed date of prorogation of their respective Houses. After the President has accorded his approval, it is notified in the Gazette Extraordinary and simultaneously a paragraph in the regard is also inserted in the Parliamentary Bulletin Part II of the respective Houses informing the members of the prorogation of the Houses.

## DISSOLUTION OF LOK SABHA

In terms of Article 83(2) of the Constitution, the House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House. As per the Government of India (Allocation of Business) Rules, 1961, the function regarding dissolution of the House of the People has been allocated to the Ministry of Parliamentary Affairs.

Despite the fact that this function has been assigned to the Ministry, it, however, rarely initiates proposal regarding dissolution of the Lok Sabha. It was only on two occasions, viz., at the time of dissolution of VII and X Lok Sabha, when the Ministry really performed this function. Otherwise, the Cabinet, without any formal note submitted to it for its consideration, takes *suo motu* decision regarding the date of dissolution of the House of the People whether it is on the eve of completion of its normal term or when it is proposed to dissolve the House prematurely. Further, necessary action in regard to obtaining the approval of the President to the Cabinet's recommendation and, sometimes, even communicating the President's Order regarding approval of the proposal to the Lok Sabha Secretariat, under intimation to this Ministry, is also taken by the Prime Minister's Office.

Whenever, the Ministry has to take action in this regard, either on its own or when directed by the Minister of Parliamentary Affairs/Prime Minister's Office, it submits, about a week before the completion of the prescribed term of the Lok Sabha, a 'Note for the Cabinet' soliciting its approval to the proposed date of dissolution of the House of the People. When the Cabinet has accorded its approval to the proposal, the Minister, through a note addressed to the President, seeks the President's approval to the proposed date of dissolution as recommended by the Cabinet. Before according his approval to the proposal, the President may ask for formal confirmation from the Secretary, Ministry of Parliamentary Affairs, as provided in the letter at **Annex III-L**, whether proposed essential Legislative and Financial Business has been transacted by the Lok Sabha before it was adjourned *sine die*. The President's approval, when received, is

communicated by the Secretary, Ministry of Parliamentary Affairs, to the Secretary-General, Lok Sabha, who after obtaining necessary approval, gets it gazetted.

## **DECISIONS**

### **Requirement of Placing Proposal Regarding Prorogation of Rajya Sabha before Cabinet Relaxed**

The ninth Session of the VI Lok Sabha and 111th Session of the Rajya Sabha were adjourned *sine die* on 20 August, 1979. Subsequently, the Lok Sabha was dissolved by the President on 22 August, 1979 and it was felt necessary to prorogue the Rajya Sabha. The Lok Sabha and Rajya Sabha Secretariats were informed of the Government's decision to prorogue the Rajya Sabha which was prorogued on 24 August, 1979 itself. Proposals to prorogue the Rajya Sabha following the dissolution of the IX Lok Sabha on 13 March, 1991, the XI Lok Sabha on 4 December, 1997 and XII Lok Sabha on 26 April, 1999 in similar situations were, however, placed before the Cabinet Committee on Parliamentary Affairs for its approval and after the Committee approved the proposals, the two Secretariats were requested to take further necessary action in the matter.

### **Houses Prorogued with the Approval of Prime Minister**

First Sessions of the XI, XII and XIII Lok Sabhas and corresponding Sessions of the Rajya Sabha were prorogued after obtaining the approval of the Prime Minister as the Cabinet Committee on Parliamentary Affairs had not been constituted by then. ( Rule 12 of the Government of India (Transaction of Business) Rules - Departure from Rules:- The Prime Minister may, in any case or classes of cases permit or condone a departure from these Rules, to the extent he deems necessary.)

### **Lok Sabha Prorogued during Recess Period of Budget Session to enable the Government to Promulgate Ordinances**

Ninth Session of X Lok Sabha and 170th Session of the Rajya Sabha were adjourned for recess on 13 May, 1994 to meet on

13 June, 1994. In order to enable the Government to promulgate Ordinances, the Lok Sabha which was adjourned on 13 May, 1994 was prorogued on 23 May, 1994. (The Rajya Sabha which was also adjourned on 13 May, 1994 was not prorogued.) After prorogation of the Lok Sabha, the following three Ordinances were promulgated:

1. The Manipur Municipalities Ordinance, 1994 (promulgated on 24 May, 1994);
2. The Punjab Municipal Corporation Law (Extension to Chandigarh) Ordinance, 1994 (promulgated on 24 May, 1994); and
3. The New Delhi Municipal Council Ordinance, 1994 (promulgated on 25 May, 1994).

The Bills relating to the above Ordinances were passed during the next Session of the Lok Sabha and in the second part of the same Session of the Rajya Sabha held after the recess.

#### **CHECK LIST**

A check list of steps to be taken at various stages in regard to summoning, prorogation of the Houses and dissolution of the House of the People is at **Annex III-M**.