

Unit 42. Salient features of the Representation of Peoples Act



Article 324 to 329 of Part XV of the Constitution deals with the electoral system in our country. Constitution allows Parliament to make provisions in all matters relating to elections to the Parliament and State Legislatures. In exercise of this power, the Parliament has enacted laws like Representation of the People Act 1950 (RPA Act 1950), Representation of the People Act 1951 (RPA Act 1951) and Delimitation Commission Act of 1952. In this article, let us focus on the salient features of the Representation of Peoples Act : RPA Act 1950 and RPA Act 1951.

Representation of Peoples Act 1950 (RPA Act 1950)

Representation of Peoples Act 1950 (RPA Act 1950) provides for the following :

1. Qualification of **voters**.
2. Preparation of electoral rolls.
3. Delimitation of constituencies.
4. Allocation of seats in the Parliament and state legislatures.

RPA Act 1950 Parts and Schedules

- Part I : Preliminary
- Part II : Allocation Of Seats And Delimitation Of Constituencies
- Part IIA : Officers
- Part IIB : Electoral Rolls For Parliamentary Constituencies
- Part III : Electoral Rolls For Assembly Constituencies
- Part IV Electoral Rolls For Council Constituencies
- Part V General
- *The First Schedule Allocation of seats in the House of the People*
- *The Second Schedule Total number of seats in the Legislative Assemblies*
- *The Third Schedule Allocation of seats in the Legislative Councils*
- *The Fourth Schedule Local authorities for purposes of elections to Legislative Councils*
- *The Fifth Schedule [Repealed by the Government of Union Territories Act, 1963]*
- *The Sixth Schedule [Repealed by the Representation of the People (Amendment) Act, 1956]*

- *The Seventh Schedule [Repealed by the Representation of the People (Amendment) Act]*

Representation of Peoples Act 1951 (RPA Act 1951)

Representation of Peoples Act 1951 is an act enacted by the Indian provincial parliament before first general elections. The People's Representation act provides for the actual conduct of elections in India. The act also deals with details like qualification and disqualification of members of both houses of Parliament (ie Loksabha and Rajyasabha) and the state legislatures (ie. State Legislative Assembly and State Legislative Council). Rules for the mode of conduct of elections is highlighted in detail.

Highlights of RPA Act 1951

1. Actual conduct of elections.
2. Administrative machinery for conducting elections.
3. Poll.
4. Election offences.
5. Election disputes.
6. By-elections.
7. Registration of political parties.

The act is of special significance to the smooth functioning of Indian democracy, as it checks the entry of persons with criminal background into the representative bodies. **Representation of People's Act 1951** was amended many times, the major amendment being made in 1966.

Salient features of the Representation of People's Act

- Part 21 of the the Indian Constitution drafted by the Constituent Assembly had mentioned for a provisional parliament. The provisional parliament enacted Representation of People's Act 1951, so that general elections could be conducted according to the rules mentioned.
- Citation is Article No 43 of 1951.
- **Representation of People's Act** contains 13 parts (2 parts added as amendments). Each part is divided into different sections making it a total of 171 numbered sections (including those sections which were repealed later.).
- The details of the parts in Representation of People Act 1951 are as below:
 1. PART I : PRELIMINARY.
 2. **PART II : QUALIFICATIONS AND DISQUALIFICATIONS.**
 3. PART III : NOTIFICATION OF GENERAL ELECTIONS.
 4. PART IV : ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS.
 5. PART IV A : REGISTRATION OF POLITICAL PARTIES.
 6. PART V : CONDUCT OF ELECTIONS.
 7. PART VA : FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES.
 8. PART VI : DISPUTES REGARDING ELECTIONS.
 9. PART VII : CORRUPT PRACTICES AND ELECTORAL OFFENCES.
 10. PART VIII : DISQUALIFICATIONS.
 11. PART IX : BYE-ELECTIONS.
 12. PART X : MISCELLANEOUS.
 13. PART XI : GENERAL.

- Expressions not used in 1951 act, but listed in Representation of the People Act 1950 (43 of 1950) shall have the same meaning.
- Chief Electoral Officer is mentioned in section 13A.
- Corrupt practices are mentioned in section 123.
- “Election” means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir.

Why Representation of the People Act is in news now?



The act, since is pivotal in preventing criminals being elected as representatives, is always quoted by Supreme Court and High Court in various judgments.

News: July 10, 2013: Supreme Court struck down Section 8(4) of the Representation of People's (RP) Act

Details: A two-judge Supreme Court bench on July 10 struck down Section 8(4) of the Representation of People's (RP) Act. Section 8(4) had provisions for convicted lawmakers to hold on to their seats provided they filed an appeal within three months of their conviction.

What is Section 8 of Representation of Peoples Act 1951 : Section 8 deals with Disqualification of representatives on conviction for certain offences. This section states that :

1 – A person convicted of an offence punishable under certain acts of Indian Penal Code, Protection of Civil Rights Act 1955, Unlawful Activities (Prevention) Act 1967, Prevention of Corruption Act 1988, Prevention of Terrorism Act 2002 etc. **shall be disqualified**, where the convicted person is sentenced to — (i) only fine, for a period of six years from the date of such conviction; (ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

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.

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 8[in sub-section (1), sub-section (2) or sub-section (3)] a disqualification under either subsection 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 that 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.**~~

The stroked-through portion above was the controversial Section 8(4) clause of the Representation of Peoples Act which was struck down by the Supreme Court calling the Act ultra-vires of the Constitution and providing for disqualification of MPs/MLAs on the day of their conviction.

News: July 2013: SC upholds Patna High Court judgment debarring persons in judicial and police custody from contesting elections (Section 62 (5) of the Representation of the People Act 1951).

Details : Convicted or not, rule applies to those in jail and police custody; not applicable to those out on bail. The Bench said: “We have heard counsel for the [political] parties and we do not find any infirmity in the findings of the High Court in the impugned common order that a person who has no right to vote by virtue of the provisions of Section 62 (5) of the Representation of the People Act 1951 is not an elector and is therefore not qualified to contest the election to the House of the People or the Legislative Assembly of a State.”

