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**PARLIAMENT OF INDIA
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS**

ONE HUNDRED AND SIXTY EIGHTH REPORT

ON

THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES)

AMENDMENT BILL, 2012

**(PRESENTED TO RAJYA SABHA ON 1st MARCH, 2013)
(LAID ON THE TABLE OF LOK SABHA ON 4th MARCH, 2013)**

**RAJYA SABHA SECRETARIAT
NEW DELHI
MARCH, 2013/PHALGUNA, 1934 (SAKA)**

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**RAJYA SABHA SECRETARIAT
NEW DELHI**

MARCH, 2013/ PHALGUNA, 1934 (SAKA)

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**Department-related Parliamentary Standing
Committee on Home Affairs
(re-constituted w.e.f. 31st August, 2012)**

Rajya Sabha

1. Shri M. Venkaiah Naidu - Chairman
2. Shri D. Raja[^]
3. Vacant^³
4. Shri Janardan Dwivedi
5. Shri Rajiv Pratap Rudy
6. Shri Satish Chandra Misra
7. Shri Prasanta Chatterjee
8. Shrimati Kanimozhi
9. Vacant^{*}
10. Dr. V. Maitreyan

Lok Sabha

11. Shri Anandrao Adsul
12. Shri L.K. Advani
13. Dr. Shafiqur Rahman Barq
14. Shri E. T. Mohammed Basheer
15. Shri Avtar Singh Bhadana
16. Smt. Santosh Chowdhary
17. Dr. Kakoli Ghosh Dastidar
18. Shri Ramen Deka
19. Shri Sandeep Dikshit
20. Shri Naveen Jindal
21. Shri Aaron Rashid J.M.
22. Shri Datta Meghe
23. Shri Lalubhai Babubhai Patel
24. Shri Sanjay Dina Patil
25. Shri Lalu Prasad
26. Shri Rathod Ramesh
27. Shri Hamdulla Sayeed
28. Shri Neeraj Shekhar
29. Shri Navjot Singh Siddhu
30. Shri Ravneet Singh
31. Shri Dinesh Chandra Yadav

SECRETARIAT

Shri P.P.K. Ramacharyulu, Joint Secretary
Shri Vimal Kumar, Director
Shri D.K. Mishra, Joint Director
Shri Bhupendra Bhaskar, Assistant Director
Shri Sanjeev Khokhar, Committee Officer
Shri Anurag Ranjan, Committee Officer

^³ Due to the resignation of Shri Rishang Keishing, Member, Rajya Sabha from the Membership of the Committee on Home Affairs w.e.f. 22.02.2013.

^{*} Due to the Appointment of Shri Tariq Anwar as Minister of State for [Agriculture](#) and [Food Processing](#) Industries.

[^] Shri D. Raja, Member, Rajya Sabha has been nominated w.e.f. 28th December, 2012 to the Committee on Home Affairs due to the appointment of Shri K. Rahman Khan as Minister of Minority Affairs in Union Cabinet

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorized by the Committee to submit the Report on its behalf, do hereby present this One Hundred and Sixty Eighth Report on the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012.

2. In pursuance of the rules relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, in consultation with Speaker, Lok Sabha, referred* the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012 (**Annexure-1**) as introduced and pending in Lok Sabha, to the Committee on 28th December, 2012, for examination and report within three months.

3. This Bill seeks to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982. The proposed amendment makes provision for secretarial assistance to ex-Governors in the form of one Personal Assistant which the concerned ex-Governor may appoint on reimbursable basis, for the remainder of his life.

4. The Committee considered the Bill in its sitting held on 21st January, 2013, wherein it heard the representatives of the Ministry of Home Affairs. As per practice, the officers of the Legislative Department and Department of Legal Affairs were also present in the sitting to respond to legislative/legal queries of the Members. The Committee in that sitting also took up the clause-by-clause consideration of the Bill.

4.1 The Committee in its sitting held on 26th February, 2013 considered and adopted this Report.

5. The Committee has made use of the following documents in preparing the Report:-

- (i) The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012;
- (ii) Detailed background Note on the Bill as received from the Ministry of Home Affairs;
- (iii) The Governors' (Emoluments, Allowances and Privileges) Act, 1982; and
- (iv) Oral evidence tendered by the representatives of Ministries of Home Affairs and Law and Justice;

6. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

M. Venkaiah Naidu

Chairman

1st March, 2013/New Delhi

Department-related Parliamentary
Standing Committee on Home Affairs

* vide Rajya Sabha Parliamentary Bulletin Part II No. 50467 dated 2nd January, 2013.

REPORT

1.1 The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012 seeks to provide Secretarial Assistance of one Personal Assistant to Ex-Governors on reimbursement basis, during his life time.

1.2 According to Statement of Objects and Reasons, the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012 seeks to achieve the following objectives:-

"As per the Governors (Emoluments, Allowances and Privileges) Act, 1982 the Governor is entitled to emoluments amounting to one lakh ten thousand rupees per month. However, the said Act does not provide for any pension or post-retirement benefits to ex-Governors except medical facilities governed by the rules or orders issued by the Ministry of Health and Family Welfare, from time to time. Keeping in view the high constitutional office that a Governor holds and considering the contributions in public discourse that they would continue to make after they retire, it is proposed to provide the secretarial assistance to ex-Governors in the form of one Personal Assistant, which the ex-Governor concerned may appoint on reimbursement basis, during his life time. However, he shall not be eligible for such secretarial assistance for the period during which he is re-appointed to the office of Governor or elected to Parliament or the State Legislature or appointed to any office of profit under the Union or a State Government."

1.3 According to the background note as furnished by the Ministry of Home Affairs, the emoluments, allowances and privileges of Governors are governed by the Governors' (Emoluments, Allowances and Privileges) Act, 1982 and rules framed thereunder, namely, the Governors' (Allowances and Privileges) Rules, 1987. It was also stated that the issue of making available secretarial assistance to Governors' post retirement had been raised at various levels including the Governors Conferences. The Ministry stated that the matter had been considered and keeping in view the high constitutional office that the Governors hold and considering the contributions in public discourse that they would continue to make

after they retire, it was proposed to provide secretarial assistance to ex-Governors in the form of one Personal Assistant which the concerned ex-Governor may appoint on reimbursable basis, for the remainder of his life.

1.4 The background note further stated that as per the Governors (Emoluments, Allowances and Privileges) Act, 1982 and the Governors (Allowances and Privileges) Rules 1987 the expenditure on various activities involving the office of the Governor is met out of the Consolidated Fund of the respective State. Keeping in view the number of ex-Governors and the small quantum of the amount involved, it was proposed that this amount may be met by the Central Government. Accordingly the matter was placed before the Cabinet vide this Ministry's notes dated 17.10.2012. The Cabinet in its meeting held on 25.10.2012 approved the proposal to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982 to provide secretarial assistance to ex-Governors in the form of one Personal Assistant, which the ex-Governor concerned may appoint on reimbursable basis. The cabinet directed that to begin with, the reimbursement amount for providing secretarial assistance may be restricted to Rs. 25,000/- per month.

1.5 The Committee was apprised that the possible financial implication annually on implementation of the proposal would be rupees one crore ninety five lakh approximately for around 65 ex-Governors.

PROPOSED AMENDMENT

1.6 The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012 was introduced in the Lok Sabha on 10.12.2012 proposing the following amendment in the existing act:-

- In section 2 of the Governors (Emoluments, Allowances and Privileges) Act, 1982 for the clause (a), the following shall be substituted, namely:-

(a) “ex-Governor” means a person who has been the Governor of a State or two or more States;

(aa) “Governor” means the Governor, or any person discharging the functions of the Governor, of any State or of two or more States;

- After section 12 of the principal Act, the following section shall be inserted, namely:-

“12A. Subject to any rules made in this behalf, the ex - Governor shall, for the remainder of his life, be entitled to secretarial assistance of one Personal Assistant on reimbursement basis:

Provided that where such ex-Governor is re-appointed to the office of Governor or elected to Parliament or the State Legislature or appointed to any office of profit under the Union or a State Government, he shall not be eligible for such secretarial assistance for the period during which he holds such office.”

- In section 13 of the principal Act, in sub-section (2), after clause (g), the following clause shall be inserted, namely:-

“(h) the manner of providing secretarial assistance and reimbursement under section 12A.”

PRESENTATION BY THE MINISTRY

1.7 The Committee in its sitting held on 21st January, 2013 heard the presentation of the Union Home Secretary on the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012. As per practice, the representatives of the Ministry of Law & Justice were also present during the meeting.

1.7 During the course of the presentation, the Chairman of the Committee sought to know whether there had been any discussion in the Committee of Governors on the issue of pension for Governors. Replying to the Committee’s query, the Union Home Secretary stated as under:-

“..... that issue, most likely will be raised. Actually, they had made 4-5 requests. One was regarding pension. The other one was regarding cashless medical treatment for retired Governors. Right now, they have to pay for their treatment and seek reimbursement later. Another one was regarding Identity Cards for former Governors. There was also a request for former Governors' entry into the Warrant of Precedence. The last one was for secretarial assistance to Ex-Governors.

On secretarial assistance to ex-Governors, we have this Bill which is before the Committee now. Then, we have decided to give Identity Cards to ex-Governors. We have asked the people who make identity cards to submit the designs. After that is finalised, we would be writing to all the ex-Governors to either send their photographs, or, we would be making the arrangements to have them photographed for the purpose. That whole process is being gone through.

On cashless medical treatment for ex-Governors, earlier when we had written to the Ministry of Health, they had expressed some problems. They had also said that they were coming up with a scheme of health insurance for everybody. That scheme, they had said, would be for cashless medical treatment. But, somehow, that scheme has not yet materialized, and it appears that it would take some more time. So, I had another discussion with the Health Secretary. He has agreed to consider this proposal separately. He

had asked me to send a separate reference for that. So, on this issue, Sir, this proposal will also go through.

On entry of ex-Governors in the Warrant of Precedence, we had referred the matter to a committee under the Cabinet Secretary which decides on these things. No decision has yet been taken on this issue”

1.9 One Member of the Committee pointed out the provision mentioned in the Memorandum regarding Delegated Legislation which reads as under and sought to know the proposed mechanism of reimbursement in this regard:

"Clause 4 of the Bill seeks to amend Section 13 of the Governors (Emoluments, Allowances and Privileges) Act, 1982 relating to the power to make rules, by inserting Clause (h) in sub-section (2) of section 13. Clause (h), proposed to be so inserted, empowers the President to make rules for the manner of providing secretarial assistance and reimbursement thereof under section 12A. The rules made by the President are required to be laid before Parliament. The matters in respect of which rules may be made by the President are matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character".

1.10 In response to the Committee's query, Home Secretary submitted as under:-

"...I will keep that in mind; when drawing up the rules, our Ministry will ensure that the ex-Governor is not made to pay first. We will try and make sure that he is given sufficient advances so that he need not get into any embarrassment on account of funds. We will take care of that in the rules."

1.11 Some Members observed that as per the provision of Section 12A the ex-Governors would have discretion to appoint somebody as her/his Personal Assistant and the expenditure would be borne by the Union Government. The Committee accorded the proposal in the Memorandum Regarding Delegated Legislation that secretarial assistance with reimbursement may be provided to ex-Governors.

1.12 Some Members sought to know whether there were any requests for pension for ex-Governors. Replying to the Committee's query, Home Secretary answered that there had been requests from time to time that ex-Governors might also be given pension. On a query as to why the Government has not considered this demand also along with the other issues, the Home Secretary responded as under:-

“This was examined by the Ministry. It was examined a number of times. The view taken was that Governors enjoy an exalted office; most people become Governors after having held some high office which has pension benefit -- whether it is the Parliament or some other civil office. There have been instances of ex-Governors rejoining active politics or some other vocation. On balance of things, it was decided that it was not really necessary to provide for a separate pension to ex-Governors.”

CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

1.13 The Committee took up clause-by-clause consideration of the Bill. The details are enumerated as below:-

Clause- 2

1.14 Clause-2 of the Bill proposes to substitute Clause (a) of Section 2 of the Act by clause (a) providing definition of “ex-Governor” as a person who has been the Governor of a State or two or more States and clause (aa) keeping the existing definition of “Governor”.

1.15 The Clause is adopted without any change.

Clause- 3

1.16 Clause-3 proposes insertion of new Section 12A in the principal Act providing for entitlement of ex-Governor, for the remainder of his term, secretarial assistance of one Personal Assistant on reimbursement basis. It also provides that where such ex-Governor is re-appointed to the office of the Governor or elected to Parliament or the State Legislature or appointed to any

office of profit under the Union or a State Government, he shall not be eligible for such secretarial assistance for the period during which he holds such office.’

1.17 The Clause is adopted without any change.

Clause-4

1.18 Clause-4 proposes insertion of Clause (h) after Clause (g) of sub-section (2) of Section 13 of the principal Act to deal with procedural and administrative mechanism for reimbursement.

1.19 The Clause is adopted without any change.

Clause 1, the Enacting Formula and the Title

1.20 Clause 1, the Enacting Formula and the Title are adopted with some changes which are of consequential/drafting nature, namely “2012” and ‘Sixty-Third’ to be substituted by ‘2013’ and “sixty-Fourth” year, respectively.

1.21 Since, this Bill proposes changes which are a matter of procedure and administrative in nature, the Committee adopts the Bill without any change and commends for being passed.

1.22 The Committee, while adopting the Bill, also suggests that the rules to be framed for implementing proposed amendment for providing secretarial assistance to ex-Governors on reimbursement basis should be formulated in such a manner as to empower the ex-Governors to appoint Personal Assistant of her/his choice but at the same time there should be some minimum qualification for eligibility for being appointed as Personal Assistant to ex-Governors so that the appointed person should be able to provide the desired secretarial assistance. The Committee also desires that, as has been agreed to by the Home Secretary, while drafting rules, it may be

ensured that the Ex-governor is not made to pay first and sufficient advances may be made available to him to meet the requirement.
