

Bill Summary

The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023

- The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023, was introduced in Rajya Sabha on August 10, 2023. It repeals the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991.
- **Election Commission:** As per Article 324 of the Constitution, the Election Commission consists of the Chief Election Commissioner (CEC) and such number of other Election Commissioners (ECs), as the President may decide. The CEC and other ECs are appointed by the President. The Bill specifies the same composition of the Election Commission. It adds that the CEC and other ECs will be appointed by the President on the recommendation of a Selection Committee.
- **Selection Committee:** The Selection Committee will consist of: (i) the Prime Minister as Chairperson, (ii) the Leader of the Opposition in Lok Sabha as member, and (iii) a Union Cabinet Minister nominated by the Prime Minister as member. If the Leader of Opposition in Lok Sabha has not been recognised, the leader of the single largest opposition party in Lok Sabha will assume the role.
- **Search Committee:** A Search Committee will prepare a panel of five persons for the consideration of the Selection Committee. The Search Committee will be headed by the Cabinet Secretary. It will have two other members, not below the rank of Secretary to the central government, having knowledge and experience in matters related to elections. The Selection Committee may also consider candidates who have not been included in the panel prepared by the Search Committee.
- **Qualification of CEC and ECs:** Persons who are holding or have held posts equivalent to the rank of Secretary to the central government will be eligible to be appointed as CEC and ECs. Such persons must have expertise in managing and conducting elections.
- **Salary and allowances:** The 1991 Act provides that the salary of the ECs will be equal to that of a Supreme Court judge. The Bill provides that salary, allowance, and service conditions of the CEC and other ECs will be the same as that of the Cabinet Secretary.
- **Term of office:** The 1991 Act mandates that the CEC and other ECs will hold office for a term of six years or until they reach the age of 65 years, whichever is earlier. If an EC is appointed as the CEC, his total term cannot exceed six years. The Bill retains the same tenure. Further, under the Bill, the CEC and other ECs will not be eligible for re-appointment.
- **Conduct of business:** All business of the Election Commission is to be conducted unanimously. In case of difference of opinion between the CEC and the other ECs on any matter, it shall be decided through majority.
- **Removal and resignation:** Under Article 324 of the Constitution, the CEC can only be removed from his office in a manner similar to that of a Supreme Court judge. This is done through an order of the President, based on a motion passed by both Houses of Parliament in the same session. The motion for removal must be adopted with: (i) majority support of total membership of each House, and (ii) at least two-thirds support from members present and voting. An EC can only be removed from office on the recommendation of the CEC. The Bill retains this removal procedure.
- Further, the 1991 Act provides that the CEC and other ECs may submit their resignation to the President. The Bill has the same provision.

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