

# Ordinance Summary

## The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023

- The Government of National Capital Territory (Amendment) Ordinance, 2023, was promulgated on May 19, 2023. It amends the Government of National Capital Territory of Delhi Act, 1991. The Act provides the framework for the functioning of the Legislative Assembly and the government of the National Capital Territory of Delhi. Key features include:
  - **Powers to legislate over services:** As per Article 239AA of the Constitution, the Delhi Legislative Assembly has powers to make laws on subjects in the State List and the Concurrent List, barring: (i) police, (ii) public order, and (iii) land. Parliament may also legislate on subjects under the State List with respect to Delhi, and these laws will prevail in case of repugnancy with state laws. The Ordinance specifies that the Delhi Legislative Assembly will not have the power to legislate on the subject of ‘services’, which comes under the State List. Services include matters related to appointments and transfers of employees of the Delhi government, and vigilance.
  - **National Capital Civil Services Authority:** The Ordinance establishes the National Capital Civil Services Authority to recommend to the Lieutenant Governor of Delhi (LG): (i) transfers and postings, (ii) matters related to vigilance, (iii) disciplinary proceedings, and (iv) prosecution sanctions of Group A of All India Services (except Indian Police Service), and Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu, and Dadra and Nagar Haveli (Civil) Services.
  - The Authority will consist of the: (i) Chief Minister of Delhi as Chairperson, (ii) Principal Home Secretary of the Delhi government as Member Secretary, and (iii) Chief Secretary of the Delhi government as member. The central government will appoint both the Principal Secretary and Chief Secretary. Officers serving in connection with the subjects of police, public order, and land will not come under the Authority’s purview. All decisions of the Authority will be based on a majority vote of the members present and voting. The quorum for a meeting is two people.
  - **Powers of the Lieutenant Governor:** Under the Act, matters where the LG may act on his discretion are: (i) matters outside the legislative competence of the Delhi Legislative Assembly but which have been delegated to the LG, or (ii) matters where he is required by a law to act in his discretion or exercise any judicial or quasi-judicial functions. The Ordinance specifies that in these matters, the LG will act in his sole discretion. It expands the discretionary role of the LG by giving him powers to approve the recommendations of the Authority, or return them for reconsideration. The LG’s decision will be final in the case of a difference of opinion between him and the Authority.
- **Appointments and conditions of service:** The Union Public Service Commission will recommend appointments for Group A and B gazetted posts. Appointments to Group B and Group C non-gazetted posts will be recommended by the Delhi Subordinate Services Selection Board. Group A includes senior management roles, Group B includes middle management roles, and Group C includes clerical assistance roles. The central government will notify the conditions of service of persons appointed to services including their tenure, qualification, salaries, powers and functions, and suspension.
- **Disposal of matters by Ministers:** A Minister of the Delhi government may issue standing orders concerning the disposal of matters brought to his attention. The order should be issued in consultation with the concerned Department Secretary. Certain matters must be submitted to the LG, through the Chief Minister, for their opinion prior to the issue of any order. These include proposals affecting: (i) the peace and tranquillity of Delhi, (ii) relations between the Delhi government and the central government, Supreme Court, or other state governments, (iii) summoning, prorogation, and dissolution of the Legislative Assembly, and (iv) matters on which LG is to give an order in his sole discretion.
- Additionally, the concerned Department Secretary must bring certain matters to the notice of the LG, the Chief Minister, and the Chief Secretary. These include matters which may bring the Delhi Government into controversy with the central or any state government, the Supreme Court, or High Court of Delhi.

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