

CB-II No.

**JOINT COMMITTEE ON OFFICES OF PROFIT
(FIFTEENTH LOK SABHA)**

EIGHTH REPORT

Presented to Lok Sabha on 14.12.2012
Laid in Rajya Sabha on 14.12.2012



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2012/Agrahayana, 1934(Saka)

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CONTENTS

	PAGE
COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT	(iii)
INTRODUCTION.....	(v)

REPORT

**Proposal for amendment of Parliament (Prevention
of Disqualification) Act, 1959)**

APPENDICES

APPENDIX-I	Extracts of the Minutes of the sitting of the Committee held on 20 October, 2010.
APPENDIX-II	Extracts of the Minutes of the sitting of the Committee held on 02 February, 2011.
APPENDIX-III	Extracts of the Minutes of the sitting of the Committee held on 01 July, 2011
APPENDIX-IV	Extracts of the Minutes of the sitting of the Committee held on 02 May, 2012
APPENDIX-V	Minutes of the sitting of the Committee held on 21.9.2012

COMPOSITION OF JOINT COMMITTEE ON OFFICES OF PROFIT

(FIFTEENTH LOK SABHA)

Shri Rewati Raman Singh - Chairman

LOK SABHA

2. Shri P.C. Chacko
3. Shri Dara Singh Chauhan
4. Shri Sanjay Dhotre
5. Shri Prataprao Ganpatrao Jadhav
6. Shri Vishwa Mohan Kumar
7. Shri Rajendrasinh Rana
8. Shri Sarvey Sathyanarayana
9. Shri Ashok Tanwar
10. Shri Pradeep Majhi

RAJYA SABHA

11. Shri Janardan Dwivedi
12. Dr. Bharatkumar Raut
13. Smt. Mohsina Kidwai
14. Shri Ravi Shankar Prasad
15. Dr.(Smt.) T.N. Seema

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri Shiv Kumar - Director
3. Shrimati Maya Lingi - Deputy Secretary

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this Eighth Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sittings held on 20 October, 2010, 2 February, 1 July, 2011 and 2 May, 2012. The Minutes of the sittings form part of the Report and are given at Appendices.

3. The Committee examined the proposal to amend the Parliament (Prevention of Disqualification) Act, 1959 with a view to incorporate an express provision therein for exempting from disqualification of Members of Parliament who are elected or appointed by either House of Parliament to an office of a body under the control of the Government.

4. The draft Parliament (Prevention of Disqualification) Amendment Bills were furnished by the Ministry of Law and Justice (Legislative Department) from time to time.

5. The Committee considered and adopted this Report at their sitting held on 21.9.2012.

6. The Committee wish to express their thanks to the Ministry of Law and Justice (Legislative Department) for furnishing the information desired by the Committee.

7. The observations/recommendations made by the Committee in respect of the matters considered by them is given at the end of this Report in bold words. The recommendations of the Committee will, however, remain advisory in nature and as such can not give any protection from disqualification under the law until the recommendations are given statutory effect by the Government by suitably amending the Parliament (Prevention of Disqualification) Act, 1959.

NEW DELHI;

December, 2012
Pausa, 1934 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

REPORT

Proposal for amendment of the Parliament (Prevention of Disqualification) Act, 1959.

1.1 While deliberating on the question of electing or appointing Members of Parliament by either House of Parliament to an office of a body under the control of the Government, Joint Committee on Offices of Profit at their sitting held on 20 October, 2010 (Appendix-I) had desired to amend the Parliament (Prevention of Disqualification) Act, 1959 to incorporate an express provisions therein for these bodies. The Committee felt that this would dispel apparent conflict in the provisions of some statutes requiring election of Members of Parliament for their appointment to Government bodies vis-à-vis Article 102 (1) (a) of the Constitution of India. The Committee then decided to obtain/hear the views of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) on this issue.

1.2 The Ministry of Law and Justice (Legislative Department) had forwarded a copy of the tentative draft of the Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 04 January, 2011 (Annexure-I) for being placed before the Joint Committee on Offices of Profit.

1.3 The Committee deliberated on the draft Bill furnished by the Ministry of Law and Justice (Legislative Department) dated 4 January, 2011 in detail at their sitting held on 2 February, 2011(Appendix-II). The Committee observed that proposed exemption in the Bill is restricted to offices of Statutory bodies only and the offices of non-Statutory bodies are not covered under the proposed exemption. The Committee also noted that in order to include non-Statutory bodies under the exempted category, the words 'constituted or established under any law for the time being in force' in proposed insertion may have to be omitted. The Committee also decided that before arriving at any conclusion over the issue, the views of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) on the issue may again be heard by the Committee.

1.4. The Ministry of Law and Justice (Legislative Department) furnished a modified draft of the Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 24.6.2011 (Annexure-II) on the lines of Committees observation made during the sitting of the Committee on 2 February, 2011 for being placed before the Joint Committee on Offices of Profit.

1.5. The Committee heard the views of the representatives of the Ministry of Law and Justice (Legislative Department) regarding: The Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 24.6.2011 at their sitting held on 01 July, 2011(Appendix-III). The Secretary, Ministry of Law and Justice (Legislative Department) stated that if the words 'constituted or established under any law for the time being in force' were omitted from the Bill, the bodies not established under law would get self-governance powers and in that case the composition, character and functions of such bodies could be changed, may be at a later stage, without taking recourse to Parliamentary reference/scrutiny over the validity/legality of the same. It was therefore submitted before the Committee that omission of these words would not be a legally sound proposition. The Committee having convinced by this argument, desired the Ministry of Law and Justice to come out with a final draft on these lines only.

1.6. The Ministry of Law and Justice (Legislative Department) had forwarded a copy of the tentative draft of the Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 18 October, 2011 (Annexure-III) after effecting necessary changes as desired and agreed to by the Committee at their sitting held on 1 July, 2011 for being placed before the Joint Committee on Offices of Profit.

1.7. The Committee considered the matter at their sitting held on 02 May, 2012 (Appendix-IV).

1.8. The Committee agreed with the submission that omission of the words 'constituted or established under any law for the time being in force' in the Bill would not be a legally sound proposition. The Committee finally expressed their agreement with the changes suggested in the draft Parliament (Prevention of

Disqualification) Amendment Bill, 2011 furnished by the Ministry of Law and Justice (Legislative Department) that the office of the Chairman or Chairperson, member or Director of a Board, committee, commission, authority, council or court of a university, body, society, trust, (by whatever name called) held by any member of the House of the People or the Council of States on being elected or appointed by the House or the Council, as the case may be, to such office constituted or established under any law for the time being in force (Annexure-I Clause 2 (Ia).

NEW DELHI

December, 2012
Pausa, 1934 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

Annexure I

Sanjay Singh
Tentative Draft

(For kind perusal of the Hon'ble Joint Committee)
Legislative Department
04.01.2011

	<p>The Parliament (Prevention of Disqualification) Amendment Bill, 2011</p> <p style="text-align: center;">A</p> <p style="text-align: center;">Bill</p> <p>further to amend the Parliament (Prevention of Disqualification) Act, 1959.</p>	
Short title.	<p>1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2011.</p>	
Amendment of Act 10 of 1959.	<p>2. In the Parliament (Prevention of Disqualification) Act, 1959, in section 3, after clause (l), the following clause shall be inserted, namely:-</p> <p>“(la) the office of the Chairman or Chairperson, Member or Director of a Board, committee, commission, authority, council or court of a university, body, society, trust, (by whatever name called) held by any member of House of the People or the Council of States on being elected or appointed by House or the Council, as the case may be, to such office constituted or established under any law for the time being in force.</p>	

ANNEXURE-II

Tentative Draft
 (For kind perusal of the Hon'ble Joint Committee)
 Legislative Department
 As on 24.06.2011

	<p>Parliament (Prevention of Disqualification) Amendment Bill, 2011</p> <p>A</p> <p>Bill</p>
	<p><i>further to amend the Parliament (Prevention of Disqualification) Act, 1959.</i></p> <p>BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-</p>
<p>Short title.</p> <p>Amendment of Act 10 of 1959.</p>	<p>1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2011.</p> <p>2. In the Parliament (Prevention of Disqualification) Act, 1959, in section 3, after clause (l), the following clause shall be inserted, namely:-</p> <p>“(la) the office of the Chairman or Chairperson, member or Director of a Board, committee, commission, authority, council or court of a university, body, society, trust, (by whatever name called) held by any member of the House of the People or the Council of States on being elected or appointed by the House or the Council, as the case may be, to such office;”</p>

Annexure III

[Signature]

Tentative Draft
(For kind perusal of the Hon'ble Joint Committee)
Legislative Department
As on 18.10.2011

	<p>The Parliament (Prevention of Disqualification) Amendment Bill, 2011</p> <p>Λ</p> <p>Bill</p> <p><i>further to amend the Parliament (Prevention of Disqualification) Act, 1959.</i></p>	
	<p>BE: it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-</p>	
Short title.	<p>1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2011.</p>	
Amendment of Act 10 of 1959.	<p>2. In the Parliament (Prevention of Disqualification) Act, 1959, in section 3, after clause (l), the following clause shall be inserted, namely:-</p> <p>“(la) the office of the Chairman or Chairperson, member or Director of a Board, committee, commission, authority, council or court of a university, body, society, trust, (by whatever name called) held by any member of the House of the People or the Council of States on being elected or appointed by the House or the Council, as the case may be, to such office constituted or established under any law for the time being in force;”</p>	

APPENDIX-I

(vide para 1.1 of the Report)

**EXTRACTS OF THE MINUTES OF THE EIGHTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
20 OCTOBER, 2010**

The Committee sat on Wednesday, 20 October, 2010 from 1500 hrs to 1545 hrs in Committee Room 'C', Ground Floor, Parliament House Annexe , New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri Vijay Bahuguna
3. Shri P.C. Chacko
4. Shri Sanjay Dhotre
5. Shri Rajendrasinh Rana
6. Shri Sarvey Sathyanarayana

RAJYA SABHA

7. Shri S.S. Ahluwalia
8. Shri Bharatkumar Raut

SECRETARIAT

1. Shri A. Louis Martin - Joint Secretary
2. Smt. Neera Singh - Director
3. Shri J.M. Baisakh - Additional Director
4. Smt. Maya Lingi - Deputy Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them about the agenda of the sitting.

3. The Committee then took up for consideration Memorandum No.6 regarding appointment of Members of Parliament as members in the National Oilseeds and Vegetable Oils Development (NOVOD) Board. The Committee observed that the proposed appointment of the two members of Lok Sabha namely Sarvashri Dilip Kumar Mansikhlal Gandhi and Suresh Kumar Shetkar to the NOVOD Board, a statutory body, is in pursuance of their election by Lok Sabha to the membership of

the Board as per Section 4 (4) (e) of the NOVOD Act, 1983. The Committee also observed that in terms of Section 3 (i) of the Parliament (Prevention of Disqualification) Act, 1959 the office of member of any statutory body (other than those specified in the schedule and clause (h) of the Act) shall not, in so far as it is an office of profit under the Government of India or the Government of any State, disqualify the holder thereof for being chosen as, or for being, a member of Parliament, if the holder of such office is not entitled to any remuneration other than 'compensatory allowance'. The Committee further noted that no remuneration is paid to the MPs separately and their travelling and other allowances are regulated in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954. As such, the allowances fall within the limit of 'Compensatory Allowance' defined under Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee felt that though the rigours of Article 102 (1) (a) of the Constitution did not appear to be attracted in this case, there should be an express provision either in the Act requiring election of members of Parliament for appointment to a Government body or in the Parliament (Prevention of Disqualification) Act 1959 exempting from disqualification, the members who are elected by Parliament for appointment as a member of body under the control of Government. The Committee felt that this would dispel apparent conflict in the provisions of some statutes requiring election of members of Parliament for appointment to Government bodies vis-à-vis article 102 (1) (a) of the Constitution. The Committee then decided to obtain/hear the views of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) on this issue.

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The Committee then adjourned.

APPENDIX-II
(vide para 1.3 of the Report)

**EXTRACTS OF THE MINUTES OF THE TENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
02 FEBRUARY, 2011**

The Committee sat on Wednesday, 02 February, 2011 from 1500 hrs to 1530 hrs in Committee Room '53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri Vijay Bahuguna
3. Shri Sanjay Dhotre
4. Shri Vishwa Mohan Kumar
5. Shri Rajendrasinh Rana
6. Shri Ashok Tanwar

RAJYA SABHA

7. Shri S.S. Ahluwalia
8. Shri Janardan Dwivedi
9. Shri Bharatkumar Raut

SECRETARIAT

- | | | |
|----------------------|---|---------------------|
| 1. Shri P.K. Grover | - | Joint Secretary |
| 2. Smt. Neera Singh | - | Director |
| 3. Shri J.M. Baisakh | - | Additional Director |
| 4. Smt. Maya Lingi | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them about the agenda of the sitting.

3. The Committee then took up for consideration Memorandum No.7 relating to tentative draft bill regarding 'The Parliament (Prevention of Disqualification) Amendment Bill, 2011' submitted by the Ministry of Law and Justice (Legislative Department) which

seeks to bring certain amendments in the concerned Act. The Committee deliberated on the question of amending the Parliament (Prevention of Disqualification) Act, 1959 to incorporate an express provision therein for exempting from disqualification of Members of Parliament who are elected or appointed by either House of Parliament to an office of a body under the control of the Government. After detailed discussion, the Committee observed that proposed exemption in the Bill is restricted to offices of statutory bodies only and the offices of non-statutory bodies are not covered under the proposed exemption. The Committee also noted that in order to include non-statutory bodies under the exempted category, the words 'constituted or established under any law for the time being in force' in proposed insertion may have to be omitted. The Committee decided that before arriving at any conclusion over the issue, the views of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) on the issue may be heard by the Committee.

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The Committee then adjourned.

APPENDIX-III
(Vide Para 1.5 of the Report)

**EXTRACTS OF THE MINUTES OF THE THIRTEENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
1 JULY, 2011**

The Committee met on Friday, 01 July, 2011 from 1500 hrs to 1550 hrs in Committee Room '53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri Vijay Bahuguna
3. Shri Sanjay Dhotre
4. Shri Prataprao Ganpatrao Jadhav
5. Shri Vishwa Mohan Kumar

RAJYA SABHA

6. Shri S.S. Ahluwalia
7. Shri Janardan Dwivedi
8. Smt. Mohsina Kidwai

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary

LIST OF WITNESSES

MINISTRY OF LAW AND JUSTICE

I. LEGISLATIVE DEPARTMENT

1. Shri V.K. Bhasin - Secretary
2. Shri N.K. Nampoothiry - Additional Secretary

II. DEPARTMENT OF LEGAL AFFAIRS

1. Shri R.L. Koli - Additional Secretary

At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them about the agenda of the sitting.

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3. The Committee then heard the views of the representatives of the Ministry of Law and Justice (Legislative Department) regarding the Parliament (Prevention of Disqualification) Amendment Bill, 2011. The witness stated that if the words 'constituted or established under any law for the time being in force' were omitted from the Bill, the bodies not established under law would get self-governance, powers and he added that in that case the composition, character and functions of such bodies could be changed without recourse to any parliamentary intervention. Therefore, omission of the words would not be legally a sound proposition. The Committee were in agreement with the same and desired the Ministry of Law and Justice to come out with a draft on these lines.

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The Committee then adjourned.

APPENDIX-IV
(vide para 1.7 of the Report)

EXTRACTS OF THE MINUTES OF THE SEVENTEENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
02 MAY, 2012

The Committee met on Wednesday, 02 May, 2012 from 1500 hrs to 1645 hrs in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS
LOK SABHA

2. Shri P.C. Chacko
3. Shri Rajendrasinh Rana
4. Shri Vishwa Mohan Kumar

RAJYA SABHA

5. Dr. Bharatkumar Raut

SECRETARIAT

1. Shri C.V. Gadgil - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary
4. Shri M.D. Tuteja - Under Secretary

At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

3. The Committee then took up for consideration Memorandum No.16 regarding the amendment of Parliament (Prevention of Disqualification) Act, 1959. The Committee discussed the draft Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 18.10.2011 furnished by Ministry of Law and Justice (Legislative Department) in detail. The Committee were in agreement with the view of the Secretary, Legislative Department (Ministry of Law and Justice) on Parliament (Prevention of Disqualification) Amendment Bill, 2011 dated 24.06.2011. The

Secretary, Legislative Department had earlier stated during the sitting of the Committee on 1 July, 2011 that if the words 'constituted or established under any law for the time being in force' were omitted from the Bill, the bodies not established under law would get self-governance powers and in that case the composition, character and functions of such bodies could be changed, may be at a later stage, without taking recourse to Parliamentary reference/scrutiny over the validity/legality of the same. It was, therefore, submitted before the Committee that omission of these words would not be a legally sound proposition. After deliberating over the issue in the light of these submissions the Committee finally expressed their agreement with the changes suggested in the Bill dated 18.10.2011 by the Ministry of Law and Justice.

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The Committee then adjourned.

APPENDIX-V

**MINUTES OF THE TWENTY FIRST SITTING OF THE JOINT COMMITTEE ON
OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
21 SEPTEMBER, 2012**

The Committee met on Friday, 21 September, 2012 from 1200 hrs to 1230 hrs in Committee Room No.'53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri Sanjay Dhotre
3. Shri Prataprao Ganpatrao Jadhav
4. Shri Vishwa Mohan Kumar
5. Shri Rajendrasinh Rana

RAJYA SABHA

6. Shri Janardan Dwivedi
7. Dr. Bharatkumar Raut
8. Smt. Mohsina Kidwai

SECRETARIAT

1. Shri C.V. Gadgil - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

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3. Thereafter, the Committee took up for consideration the draft Seventh and Eighth Reports. The Committee adopted the Seventh Report without any modification. As regards, the Eight Report, the Committee felt that the portion 2 (la) of the modified Parliament (Prevention of Disqualification) Amendment Bill, 1959 be explicitly incorporated in the recommendation of the Report. The recommendation after incorporating the same reads as follows :-

“The Committee agreed with the submission that omission of the words ‘constituted or established under any law for the time being in force’ in the Bill would not be a legally sound proposition. The Committee finally expressed their agreement with the changes suggested in the draft Parliament (Prevention of Disqualification) Amendment Bill, 2011 furnished by the Ministry of Law and Justice (Legislative Department) that the office of the Chairman or Chairperson, member or Director of a Board, committee, commission, authority, council or court of a university, body, society, trust, (by whatever name called) held by any member of the House of the People or the Council of States on being elected or appointed by the House or the Council, as the case may be, to such office constituted or established under any law for the time being in force.

4. The Committee then adopted the Eight Report with aforesaid modification.
5. The Committee also authorised the Chairman to present the same to Parliament.

The Committee then adjourned.

