

## **INDIAN COUNCILS ACT, 1909**

**4 of 1909**

**[25th May, 1909]**

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## **INDIAN COUNCILS ACT, 1909**

**4 of 1909**

**[25th May, 1909]**

An Act to amend the Indian Councils Acts', 1861 and Indian Councils Acts', 1892, and the Government of India Act, 1833. Be it enacted by the King's most Excellent Majesty by, and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:--

### **1. Amendment of constitution of Legislative Councils :-**

(1) The additional members of the councils for the purpose of making laws and regulations (herein-after referred to as Legislative Councils) of the Governor-General and of the Governors of Fort Saint George and Bombay, and the members of the Legislative Councils already constituted, or which may hereafter be constituted, of the several Lieutenant-Governors of Provinces, instead of being all nominated by the Governor General, Governor or Lieutenant-Governor in manner provided by the Councils Acts, 1861 and Councils Acts, 1862, shall include members so nominated and also members elected in accordance with regulations made under this Act, and references in those Acts to the members so

nominated and their nomination shall be construed as including references to the members so elected and their election.

(2) The number of additional members or members so nominated and elected, the number of such members required to constitute a quorum, the term of office of such members and the number of filling up casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall, in the case of each such council, be such as may be prescribed by regulations made under this Act. Provided that the aggregate number of members so nominated and elected shall not, in the case of any Legislative Council mentioned in the first column of the First Schedule to this Act, exceed the number specified in the second column of that schedule.

## **2. Constitution and procedure of Executive Councils of Governors of Port Saint George and Bombay :-**

(1) The number of ordinary members of the Councils of the Governors of Fort Saint George and Bombay shall be such number not exceeding four as the Secretary of State in Council may from time to time direct, of whom two at least shall be persons who at the time of their appointment have been in the service of the Crown in India for at least twelve years.

(2) If at any meeting of either of such councils there is an equality of votes on any question, the Governor or other person presiding shall have two votes or the casting vote.

## **3. Power to Constitute provincial executive councils :-**

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(1) It shall be lawful for the Governor-General in Council with the approval of the Secretary of State in Council, by proclamation, to create a Council in the Bengal Division of the Presidency of Fort William for the purpose of assisting the Lieutenant-Governor in the executive government of the province, and by such proclamation-

(a) to make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the council; and

(b) to make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, and for the procedure to be adopted in case of

a difference, of opinion between a Lieutenant-Governor and his council, and in in the case of equality of votes, and in the case of a Lieutenant-Governor being obliged to absent himself from his council for indisposition or any other cause.

1. The provisions of this sub-section have been applied to the province of Bihar and orissa by the Government of India Act, 1912 (2 and 3 Geo. 5, c. 6), s. 2, post.

#### **4. Power to extend business of Legislative Councils :-**

(1) Notwith-standing anything in the Councils Act, 1861, the Governor-General in Council, the Governors in Council of Fort Saint George and Bombay respectively, and the Lieutenant-Governor or Lieutenant-Governor in Council of every province, shall make rules authorising at any meeting of their respective legislative councils the discussion of the annual financial statement of the Governor-General -in Council or of their respective local governments, as the case may be, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed .in the rules applicable to the several councils.

(2) Such rules as aforesaid may provide for the appointment of a member of any such council to preside at any such discussion in the place of the Governor-General, Governor, or Lieutenant-Governor, as the case may be, and of any Vice-President.

(3) Rules under this section, where made by a Governor in Council, or by a Lieutenant-Governor, or a Lieutenant-Governor in Council, shall be subject to the sanction of the Governor-General in Council, and where made by the Governor-General in Council shall be subject to the sanction of the Secretary of State in Council, and shall not be subject to alteration or amendment by the Legislative Council, of the Governor-General, Governor, or Lieutenant-Governor.

#### **5. Power to make regulations :-**

The Governor-General in Council shall, subject to the approval of the Secretary of State in Council, make regulations as to the conditions under which and manner in which persons resident in India may be nominated or elected as members of the Legislative Councils of the Governor-General, Governors, and Lieutenant-Governors, and as to the qualifications for being, and for being, nominated or elected, a member of any such council, and as to any other matter for which regulations are authorised to be made under

this Act, and also as to the manner in which those regulations are to be carried into effect. Regulations under this section shall not be subject to alteration or amendment by the Legislative Council of the Governor-General.

**6. Laying of proclamations, etc., before Parliament :-**

All proclamations, regulations, and rules made under this Act, other than rules made by a Lieutenant-Governor for the more convenient transaction of business in his council, shall be laid before both Houses' of Parliament as soon as may be after they are made.

**7. Short title, construction, commencement and repeal :-**

(1) This Act may be cited as the Indian Councils Act, 1909, and shall be construed with the Councils Acts, 1861 and Councils Acts, 1892. and those Acts, the Councils Act, 1869. the Councils Act, 1871. the Councils Act, 1874, the Councils Act, 1904 . and this Act may be cited together as the Councils Acts, 1861 to Indian Councils Acts, 1909.

(2) <sup>1</sup> This Act shall come into operation on such date or dates as the Governor-General in Council, with the approval of the Secretary of State in Council, may appoint, and different dates may be appointed for different purposes and provisions of this Act and for different Councils. On the date appointed for the coming into operation of this Act as respects any Legislative Council, all the nominated members of the council then in office shall go out of office, but may, if otherwise qualified, be renominated or be elected in accordance with the provisions of this Act.

(3) The enactment mentioned in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

1. The Act came into operation for all purposes and for all Councils on the 15th November, 1909-see Gazette of India Extra-ordinary, dated 15th November, 1909, p. 1.