

Bill Summary

The Lokpal & Lokayuktas Bill 2011 (as passed by Lok Sabha)

- The Lokpal and Lokayuktas Bill, 2011, introduced on December 22, 2011, was passed by the Lok Sabha on December 27, 2011. The Bill was taken up for consideration and passing in the Rajya Sabha, which referred it to a Select Committee (Chairperson: Shri Satyavrat Chaturvedi). The Committee is scheduled to submit its report by the last week of the Monsoon session.
- The Bill provides for establishment of the Lokpal at the centre and Lokayuktas in the states for inquiring into complaints of corruption against certain public servants. The Bill, once passed, shall be applicable to states if they give their consent to its application.
- The members of the Lokpal (Lokayuktas) shall be appointed by the President (Governor) on the basis of the recommendations of the Selection Committee.
- The Selection Committee for the Lokpal shall comprise of the Prime Minister (Chief Minister), Speaker of the Lower House, Leaders of the Opposition of the Lower House, the Chief Justice of India (Chief Justice of the High Court) or a judge of the Supreme Court nominated by him, and an eminent jurist nominated by the President (Governor). The Bill makes it mandatory for the Selection Committee to constitute a search committee of at least seven members. At least 50% of the members shall be from among SC, ST, OBC, women or minority communities. The Selection Committee may consider a candidate other than one recommended by the Search Committee.
- The Lokpal and Lokayuktas shall consist of one chairperson and up to eight members. The Chairperson shall be the CJI or a present or former judge of the Supreme Court or a non-judicial member with specified qualifications (Chief Justice or a Judge of a High Court). Fifty percent of the other members shall be judicial members (judges of the Supreme Court and Chief Justices of the High Court in case of Lokpal and judge of a High Court in case of Lokayuktas). A non-judicial member is required to have 25 years experience in anti-corruption policy, public administration, vigilance and finance.
- At least 50 per cent of the members of both bodies shall be from among SC, ST, OBC, minorities and women.
- Members of the Lokpal may be removed by the President after an inquiry by the Supreme Court. The Supreme Court may inquire based on a reference from the President. Such reference may be made by the President on his own, or on a citizen's petition if the President is satisfied by it, or on a petition signed by 100 MPs.
- A Lokpal can enquire into offences under the Prevention of Corruption Act, 1988 (PCA) committed by:
 - (a) the PM with specified safeguards,
 - (b) current and former Union Ministers,
 - (c) current and former MPs,
 - (d) group A, B, C, D officers,
 - (e) employees of a company, society or a trust set up by an Act of Parliament, or financed or controlled by the central government.
 - (f) employees of association of persons that (i) have received funding from the government and have an annual income above a specified amount; or (ii) have received public donation and have an annual income above a specified amount or received foreign funding above Rs 10 lakh a year.
- An inquiry against the PM has to be held *in-camera* and approved by a 2/3rd majority of the full bench of the Lokpal. The PM cannot be investigated if the complaint is related to international relations, external and internal security, public order, atomic energy and space.
- The Lokayuktas shall have jurisdiction over the CM, Ministers, MLAs, all state government employees and certain private entities (including religious institutions).
- The Lokpal's inquiry wing is required to inquire into complaints within 60 days of their reference. On considering an inquiry report the Lokpal shall (i) order an investigation; (ii) initiate departmental proceedings; or (iii) close the case and proceed against the complainant for making a false and frivolous complaint. The investigation shall be completed within 6 months. The Lokpal may initiate prosecution through its Prosecution Wing before the Special Court set up to adjudicate cases. The trial shall be completed within a maximum of two years. The Bill specifies a similar procedure for Lokayuktas.
- The Bill removes the requirement of sanction for initiating investigation and prosecution.
- The Bill penalises false and frivolous complaints with imprisonment for a maximum of one year and a fine of up to one lakh rupees. The Bill amends the PCA to enhance penalties for a public servant for corruption from maximum of five years to seven years. For criminal misconduct and habitually abetting corruption, the jail term is increased from seven years to ten years.