

Recommendations of the Select Committee on the Lok Pal and Lokayuktas Bill, 2011 Accepted by the Cabinet

The Lokpal and Lokayuktas Bill, 2011 was introduced in Lok Sabha on December 22, 2011. The Bill was passed in the Lok Sabha on December 27, 2011 and was referred to a Select Committee of the Rajya Sabha on May 21, 2012. The Select Committee tabled its report to the Rajya Sabha on November 23, 2012. On January 31, 2013 the Cabinet accepted some of the amendments suggested by the Select Committee. The Table below summarises the recommendations of the Select Committee accepted or not accepted by the Cabinet.

Key issues	Lok Pal and Lokayuktas Bill, 2011 as passed	Select Committee Recommendations	Decision of Cabinet
Lokayuktas	States that the Bill will only be applicable to states that give consent. Part III of the Bill gives details of the constitution of Lokayuktas in the states.	Every state to mandatorily have a Lokayukta within a period of one year from the date of notification of this Act. The Lok Pal Bill may be sent to all states as a model but states have the freedom to determine the nature and type of Lokayukta depending on their requirements.	Accepted. The states have to set up Lokayuktas through a law within 365 days from the date of commencement of the Act.
Eligibility of member	The Chairperson or members of the Lok Pal shall not be connected with any political party.	The words "connected with any political party" shall be replaced with "affiliated with any political party".	Accepted.
Appointment of members	An eminent jurist nominated by the President shall be one of the members of the Lok Pal.	The jurist shall be appointed by the President on the recommendation of the Selection Committee.	Accepted.
Jurisdiction	Includes societies, trusts and associations of persons which are "wholly or partly financed or aided by the government" and an annual income which exceeds such amount as may be notified by the central government. Includes societies, trusts and associations of persons which receive donations from the public over a specified annual income and organizations which receive foreign donations over Rs 10 lakh a year	The word "aided" may be omitted. (The Committee felt that income tax exemption etc may be interpreted as "aid", and so should not be included). Exclude organisations that receive donations from the public over a certain specified annual income.	Not accepted. Only exclude public religious or charitable trusts or endowments or societies for religious or charitable purposes registered under Societies Registration Act.
Procedure of inquiry and investigation	On receipt of a complaint, Lok Pal shall first decide whether to proceed on the matter. If it decides to do so, it shall order a preliminary inquiry by the Inquiry Wing or any other investigative agency.	On receipt of a complaint, Lok Pal shall first decide whether to proceed on the matter. If it decides to do so, it shall either order a preliminary inquiry or if a prima facie case already exists it may order an investigation by any investigative agency.	Accepted with modification that the Lokpal should, before concluding that there exists a prima facie case, call for the explanation of the public servant. An investigation should be ordered only after hearing the public servant.
	During inquiry, comments of the public servant and competent authority <i>shall</i> be obtained.	During inquiry, comments of the public servant and competent authority <i>may</i> be obtained.	Not accepted.
	A 3-member bench of the Lok Pal shall decide if a prima facie case exists after receiving the inquiry report. The	The provision of giving the concerned public servant an opportunity of being heard should be deleted.	Not accepted.

Power to grant sanction	<p>concerned public servant shall be given an opportunity of being heard.</p> <p>The investigative agency shall submit the investigation report to the Lok Pal, which shall be considered by a 3-member Lok Pal bench before filing a charge-sheet or initiating disciplinary proceedings against the public servant.</p> <p>If the Lok Pal decides to file charge-sheet, it shall direct its Prosecution Wing to initiate prosecution in the Special Court.</p>	<p>While considering the investigation report, the 3-member Lok Pal bench shall obtain comments of the competent authority and the concerned public servant.</p> <p>If the Lok Pal decides to file charge-sheet, it shall either direct its Prosecution Wing or the investigation agency which has investigated the concerned case to initiate prosecution in the Special Court.</p>	Accepted.
CBI	<p>Central government to appoint the Director of CBI on the recommendation of PM, Leader of the Opposition of the Lok Sabha and Chief Justice of India or judge of Supreme Court.</p>	<p>Director of CBI will be appointed by a collegium comprising of the PM, Leader of the Opposition of the Lok Sabha and Chief Justice of India.</p> <p>The power of superintendence over CBI in relation to Lok Pal referred cases shall vest in Lok Pal.</p> <p>CBI officers investigating cases referred by the Lok Pal will be transferred with the approval of the Lok Pal.</p> <p>For cases referred by the Lok Pal, the CBI may appoint a panel of advocates (other than government advocates) with the consent of the Lok Pal.</p> <p>CBI shall have a separate Directorate of Prosecution under a Director, who shall be under the Director of CBI.</p> <p>Director of Prosecution shall be appointed on recommendation of Central Vigilance Commission,</p> <p>Director of CBI and Prosecution shall have a fixed term of two years.</p> <p>The government shall provide all such expenditure, which in the opinion of the Director, CBI is necessary to conduct an effective investigation. The Director, CBI shall be responsible for all expenditure sanctioned and spent by the CBI for the conduct of such investigation.</p>	Accepted all recommendations except one that requires the approval of the Lokpal to transfer officers of CBI investigating cases referred by the Lokpal.
Removal of Lok Pal	<p>The President may remove a member after a Supreme Court inquiry. The Court may inquire based on a reference from the President (a) on his own accord or (b) on a citizen's petition or (c) on a petition signed by 100 MPs.</p>	<p>The Supreme Court may make an inquiry on a reference from the President on a petition signed by at least 100 MPs.</p>	
Suspension of member of Lok Pal	<p>The President may suspend a member if a reference has been made to the Supreme Court against him.</p>	<p>A member of the Lok Pal may be suspended only if the Supreme Court makes a recommendation or an interim order to that effect.</p>	
False and frivolous complaints	<p>Penalty is imprisonment for a maximum term of 1 year and a fine of up to Rs 1 lakh. Does not apply to complaints made on good faith (as defined in IPC).</p>	<p>Complaints that are made in good faith should not be penalized. The term "good faith" should be interpreted as "with due care and caution, and a sense of responsibility."</p>	

Sources: The Lokpal and Lokayuktas Bill, 2011; the Select Committee Report; "Official Amendments to Lokpal and Lokayuktas Bill, 2011," PIB, January 31, 2013.

Prepared by Kaushiki Sanyal at PRS Legislative Research on February 1, 2013

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