

Quadrant II

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Module No: 15

Executive – Meaning

Legislature, executive and judiciary are the three organs of government. Together, they perform the functions of the government, maintain law and order and look after the welfare of the people. The Constitution ensures that they work in coordination with each other and maintain a balance among themselves

The word executive means a body of persons that looks after the implementation of rules and regulations in actual practice. In the case of government also, one body may take policy decisions and decide about rules and regulations, while the other one would be in charge of implementing those rules. The organ of government that primarily looks after the function of implementation and administration is called the executive.

The Union executive consists of the President, the Vice-President, the Prime Minister, the council of ministers and the attorney general of India. The President is the head of the Indian State. He is the first citizen of India and acts as the symbol of unity, integrity and solidarity of the nation.

President

- I. The President is elected not directly by the people but by members of electoral college consisting of: 1. the elected members of both the Houses of Parliament; 2. the elected members of the legislative assemblies of the states; and 3. the elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry
- II. A person to be eligible for election as President should fulfil the following qualifications: 1. He should be a citizen of India. 2. He should have completed 35 years of age. 3. He should be qualified for election as a member of the Lok

- Sabha. 4. He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority.
- III. The President holds office for a term of five years from the date on which he enters upon his office. However, he can resign from his office at any time by addressing the resignation letter to the Vice-President. Further, he can also be removed from the office before completion of his term by the process of impeachment.
 - IV. The President can be removed from office by a process of impeachment for 'violation of the Constitution'

POWERS AND FUNCTIONS OF THE PRESIDENT

The powers enjoyed and the functions performed by the President can be studied under the following heads.

Executive powers

- I. Executive actions of the Government of India are formally taken in his name.
- II. He can make rules specifying the manner in which the orders and other instruments made and executed in his name shall be authenticated.
- III. He can make rules for more convenient transaction of business of the Union government, and for allocation of the said business among the ministers.
- IV. He appoints the prime minister and the other ministers. They hold office during his pleasure.

Legislative powers

- I. He can summon or prorogue the Parliament and dissolve the Lok Sabha. He can also summon a joint sitting of both the Houses of Parliament, which is presided over by the Speaker of the Lok Sabha.
- II. He can address the Parliament at the commencement of the first session after each general election and the first session of each year.

- III. He can send messages to the Houses of Parliament, whether with respect to a bill pending in the Parliament or otherwise.
- IV. He can appoint any member of the Lok Sabha to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant. Similarly, he can also appoint any member of the Rajya Sabha to preside over its proceedings when the offices of both the Chairman and the Deputy Chairman fall vacant.
- V. He nominates 12 members of the Rajya Sabha from amongst persons having special knowledge or practical experience in literature, science, art and social service.

Financial powers

- I. Money bills can be introduced in the Parliament only with his prior recommendation.
- II. He causes to be laid before the Parliament the annual financial statement (ie, the Union Budget).
- III. No demand for a grant can be made except on his recommendation.
- IV. He can make advances out of the contingency fund of India to meet any unforeseen expenditure.

Judicial powers

- I. He appoints the Chief Justice and the judges of Supreme Court and high courts.
- II. He can seek advice from the Supreme Court on any question of law or fact. However, the advice tendered by the Supreme Court is not binding on the President.
- III. He can grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute the sentence of any person convicted

Diplomatic powers

- I. The international treaties and agreements are negotiated and concluded on behalf of the President.

Military powers

- He is the supreme commander of the defence forces of India. In that capacity, he appoints the chiefs of the Army, the Navy and the Air Force. He can declare war or conclude peace, subject to the approval of the Parliament.

Emergency powers

- I. In addition to the normal powers mentioned above, the Constitution confers extraordinary powers on the President to deal with the following three types of emergencies⁹ : (a) National Emergency (Article 352); (b) President's Rule (Article 356 & 365); and (c) Financial Emergency (Article 360)

Vice President

The Vice-President occupies the second highest office in the country. The Vice-President, like the president, is elected not directly by the people but by the method of indirect election. He is elected by the members of an electoral college consisting of the members of both Houses of Parliament.

Prime Minister

In parliamentary system of government provided by the constitution, the President is the nominal executive authority (de jure executive) and Prime Minister is the real executive authority (de facto executive). In other words, president is the head of the State while Prime Minister is the head of the government.

- Article 75 says only that the Prime Minister shall be appointed by the president.

The Prime Minister enjoys the following powers as head of the Union council of ministers

- I. He recommends persons who can be appointed as ministers by the president. The President can appoint only those persons as ministers who are recommended by the Prime Minister.
- II. He allocates and reshuffles various portfolios among the ministers.
- III. He can ask a minister to resign or advise the President to dismiss him in case of difference of opinion.
- IV. He presides over the meeting of council of ministers and influences its decisions.
- V. He guides, directs, controls, and coordinates the activities of all the ministers.
- VI. He can bring about the collapse of the council of ministers by resigning from office.

He is the principal channel of communication between the President and the council of ministers.

It is the duty of the prime minister :

- (a) to communicate to the President all decisions of the council of ministers relating to the administration of the affairs of the Union and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- (c) if the President so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

In Relation to Parliament

the Prime Minister is the leader of the Lower House. In this capacity, he enjoys the following powers:

- I. He advises the President with regard to summoning and proroguing of the sessions of the Parliament.
- II. He can recommend dissolution of the Lok Sabha to President at any time.
- III. He announces government policies on the floor of the House.

Council of Minister

In parliamentary system the council of ministers headed by the prime minister is the real executive. The principles of parliamentary system of government are not detailed in the Constitution, but two Articles (74 and 75) deal with them in a broad, sketchy and general manner. Article 74 deals with the status of the council of ministers while Article 75 deals with the appointment, tenure, responsibility, qualification, oath and salaries and allowances of the ministers.

Article 74—Council of Ministers to aid and advise President

1. There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice. However, the President may require the Council of Ministers to reconsider such advice and the President shall act in accordance with the advice tendered after such reconsideration.
2. **Article 75—Other Provisions as to Ministers** 1. The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.