

FREE EXTRACT

Polity Previous Year Questions

Three questions from inside the book, with the explanation written out as it appears throughout. Nothing here is abridged for the sample.

1

Consider the following statements with reference to the Tenth Schedule to the Constitution of India:

- 1. A nominated member of a House becomes disqualified if he joins any political party after the expiry of six months from the date on which he takes his seat.**
- 2. A merger is protected from disqualification only where not less than two-thirds of the members of the legislature party concerned have agreed to such merger.**
- 3. A member is exempt from disqualification if not less than one-third of the members of his legislature party form a separate group.**

Which of the statements given above is/are correct?

- (A) 1 and 2 only
- (B) 2 and 3 only
- (C) 1 and 3 only
- (D) 1, 2 and 3

Answer: (A) 1 and 2 only

Paragraph 2(3) of the Tenth Schedule gives a nominated member a window of six months in which he may join a political party without penalty, the reasoning being that someone nominated for his expertise should be allowed to make up his mind; once that window closes, joining a party costs him his seat. An independent member gets no such window at all and is disqualified the moment he joins any party after his election, and that contrast is what examiners most often test. Paragraph 4 saves a merger only when at least two-thirds of the members of the legislature party agree to it, so the arithmetic of survival is two-thirds, not one-half. The old escape route of a split by one-third of the legislature party was deleted by the Ninety-first Amendment Act, 2003, precisely because it had made wholesale defection easy, so statement 3 describes law that no longer exists. Remember also that the Speaker or Chairman decides these questions, and that although the Schedule calls that decision final, the Supreme Court in *Kihoto Hollohan* held it open to judicial review.

2**Consider the following:**

- 1. The representation of States in Parliament**
- 2. Any of the Lists in the Seventh Schedule**
- 3. The Fundamental Rights enumerated in Part III**
- 4. The extent of the executive power of a State**

An amendment of the Constitution seeking to make a change in how many of the above requires ratification by the legislatures of not less than one-half of the States?

- (A) Only one
- (B) Only two
- (C) Only three
- (D) All four

Answer: (C) Only three

The proviso to Article 368(2) lists the federal core of the Constitution, and an amendment touching any item on that list needs, over and above the special majority in each House, ratification by the legislatures of not less than one-half of the States. The representation of States in Parliament and the Lists of the Seventh Schedule are expressly named there, and so is Article 162, which defines the extent of the executive power of a State, alongside Articles 54, 55, 73, 241 and 279A. Fundamental Rights are the trap here, because Part III can be amended by a special majority alone with no reference to the States at all, though since *Kesavananda Bharati* such an amendment must still survive the basic structure test. Note three details that questions like to hang on: the States can only ratify and never initiate, a simple majority suffices in the State legislature, and the Constitution prescribes no time limit within which the States must act. Contrast all this with Article 3, where a new State can be carved out by an ordinary law passed by a simple majority, the State legislature being merely consulted.

3**Consider the following bodies:**

- 1. National Commission for Backward Classes**
- 2. National Commission for Protection of Child Rights**
- 3. Goods and Services Tax Council**
- 4. Finance Commission**

Which of the above are constitutional bodies?

- (A) 1 and 4 only
- (B) 2 and 3 only
- (C) 1, 3 and 4 only
- (D) 1, 2, 3 and 4

Answer: (C) 1, 3 and 4 only

A constitutional body owes its existence to a provision of the Constitution itself, so altering or abolishing it requires a constitutional amendment, whereas a statutory body is the creature of an ordinary Act and can be reshaped by ordinary legislation. The National Commission for Backward Classes became a constitutional body only in 2018, when the One Hundred and Second Amendment inserted Article 338B; before that it was purely statutory, which is why older notes mislead candidates on this point. The Goods and Services Tax Council rests on Article 279A, inserted by the One Hundred and First Amendment, and the Finance Commission on Article 280, under which the President constitutes it every fifth year or at such earlier time as he considers necessary. The National Commission for Protection of Child Rights is the odd one out, having been set up under the Commissions for Protection of Child Rights Act, 2005. Keep a short mental list of bodies that sound constitutional but are not, such as the National Human Rights Commission, the Central Vigilance Commission, the Central Information Commission and the Lokpal, and of NITI Aayog, which is neither constitutional nor statutory but a purely executive creation.

The full book

Every question from the papers, each explained like this.