

**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY MEMBERS
(REMOVAL OF DISQUALIFICATIONS) ACT, 1971**

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
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**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY MEMBERS
(REMOVAL OF DISQUALIFICATIONS) ACT, 1971**

(ACT NO. 7 OF 1971)¹

(Received the assent of the Governor on the 22nd April, 1971 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 18th May, 1971, pp. 338-340.)

An Act to declare certain offices of profit under the Government of India, or the Government of any State specified in the First Schedule to the Constitution not to disqualify their holders for being chosen as, or for being, members of the Himachal Pradesh Legislative Assembly.

Amended, repealed or otherwise affected by:-

- (i) H.P. Act No. 8 of 1979² assented to by the Governor on 9th May, 1979, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 10th May, 1979, pp. 1721-1722.
- (ii) H. P. Act No. 26 of 1979³ assented to by the Governor on 16th November, 1979, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 22nd November, 1979, pp. 2517-2518.
- (iii) H.P. Act No. 7 of 1981⁴ assented to by the Governor on 2nd May, 1981, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 6th May, 1981, pp. 338-339.

1. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 19th April, 1971, p. 250.
2. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 21st April, 1979, p.1542.
3. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 3rd November, 1979, pp. 2482.
4. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 26th March, 1981, p. 158.

- (iv) H.P. Act No. 15 of 1981¹ assented to by the Governor on 7th November, 1981, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 10th November, 1981, pp. 1000-1001, effective from 18th May, 1971.
- (v) H.P. Act No.13 of 1996² assented to by the Governor on 21st November, 1996, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 26th November, 1996, pp. 5257-5260.
- (vi) H.P. Act No. 15 of 1997³ assented to by the Governor on 7th May, 1997, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 9th May, 1997, pp. 1705-1708.
- (vii) H.P. Act No. 11 of 2005⁴ assented to by the Governor on the 31st March, 2005, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 31st March, 2005, pp. 4387-4390, effective from 24th January, 2005.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) Act, 1971.

(2) It shall come into force at once.

2. Definitions.- In this act, unless the context otherwise requires,-

- (a) “compensatory allowance” means such sum of money as the Government may determine as being payable to the holder of an office by way of travelling allowance, daily allowance, sitting allowance, conveyance allowance or house rent allowance for the purpose of ⁵[XXXXXXXXXXXXXXXXXXXX] performing the functions of that office;
- (b) “statutory body” means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force;

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1. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 26th September, 1981, p. 856.
 2. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 9th September, 1996, pp. 4254 and 4256.
 3. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 10th April, 1997, pp. 1266 and 1268.
 4. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 7th March, 2005, pp. 4018 and 4021.
 5. The words “enabling him to recoup any expenditure incurred by him in” omitted vide H.P. Act No. 15 of 1981, effective from 18th May, 1971.

- (c) “non-statutory body” means any body of persons other than a statutory body.

3. Prevention of disqualifications for membership of the Legislative Assembly of Himachal Pradesh.- A person shall not be disqualified for being chosen as, and for being, a member of the Himachal Pradesh Legislative Assembly by reason only of the fact that he holds any of the following offices of profit under the Government of India or the Government of any State:-

- (a) the office of the Deputy Minister or Minister of State;
- (b) any office held by a Minister, Minister of State, or Deputy Minister whether *ex-officio* or by name;
- ¹[(b-a) the office of the Political Advisor to the Chief Minister;]
- (c) the office of the Speaker or the Deputy Speaker of the Himachal Pradesh Legislative Assembly or of Parliament or of the Legislative Assembly of any other State;
- (d) the office of the Chief Parliamentary Secretary or Parliamentary Secretary;
- (e) the office of the Chief Whip, Deputy Chief Whip or Whip in any Legislative Assembly or in Parliament;
- (f) the office of village revenue officer whether called a lamberdar, malguzar, patel, deshmuks or by any other name, whose duty is to collect land revenue and who is remunerated by a share of or commission on, the amount of land revenue collected by him, but who does not discharge any police functions;
- (g) any office in the National Cadet Corps, the Territorial Army, the Air Defence Reserve and the Auxiliary Air Force under any law for the time being in force;
- (h) the office of a member of a Home Guard constituted under any law for the time being in force in any State;
- (i) the office of Chairman or member of the Syndicate, Senate, Executive Committee, Council or Court of a University or any other body connected with a University;
- (j) the office of the Vice-Chancellor of any University;
- ²[j-a) the office of the Chairman or Vice-Chairman of any statutory or non-statutory body, where the power to make the appointment or power to remove the person from the office is vested in the State Government;]
- (k) the office of a member of any delegation or mission sent outside India by the Government of India or the Government

1. Clause (b-a) added vide H.P. Act No. 11 of 2005, effective from 24th January, 2005.

2. Clause (j-a) added vide H.P. Act No.13 of 1996, this amendment shall be and shall always be deemed to have been made with effect from 1st day of July, 1994 vide H.P. Act No. 15 of 1997.

of any State or sent outside the State of Himachal Pradesh by the Government of the said State for any special purpose;

- (l) the office of chairman or member of a committee (whether consisting of one or more members) set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance;
- (m) the office of ¹[XXXXXXX] director or member of any statutory or non-statutory body other than any such body as is referred to in clause (l) if the holder of such office is not entitled to any remuneration other than compensatory allowance;
- (n) the office of any honorary medical officer or honorary assistant medical officer in a hospital under Government management;
- (o) a person drawing his service pension, political pension or grant, mansab, charitable grant or commutation sum of compensation in respect of a jagir, inam or other grant;
- (p) the office of an agent or other like office for the purpose of effecting sales of or collecting subscription towards, National Plan Certificates or any other savings certificates or Government securities notified as such by the Central Government for such commission as the Central Government may have fixed in that behalf or without such commission;
- (q) the office of an examiner for any examination held by the Central or State Government or by the Union Public Service Commission or any State Public Service Commission;
- (r) the office of Sarpanch or member of a Panchayat under any law for the time being in force ²[;]
- ³[(s) notwithstanding anything contained in clauses (l) and (m) of this section, the office of ⁴[the Chairman, Vice-Chairman or] member of Commission for Scheduled Castes and Scheduled Tribes appointed by the Government of India ⁵[or the office of the Deputy Chairman of the Himachal Pradesh State Planning Board constituted by the State Government.]

4. Determination of question arising after the commencement of the Act.- Any question arising after the commencement of this Act as to any office being an office of profit under the Government of India or the

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- 1. The words and sign "chairman or vice-chairman," deleted vide H.P. Act No. 13 of 1996 and this amendment shall be and shall always be deemed to have been made with effect from 1st day of July, 1994 vide H.P. Act No. 15 of 1997.
 - 2. Substituted for the sign "." vide H.P. Act No. 8 of 1979.
 - 3. Clause (s) added vide H.P. Act No. 8 of 1979.
 - 4. Inserted vide H.P. Act No. 7 of 1981.
 - 5. Inserted vide H.P. Act No. 26 of 1979.

Government of any State shall be determined as if the provisions of this Act had been in force at all material dates.

5. Repeal and saving.- The Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) Ordinance, 1971 (Himachal Pradesh Ordinance No. 4 of 1971) is hereby repealed.

Notwithstanding such repeal, anything done or any action taken under the aforesaid Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 25th January, 1971.
