

The Lokpal and Lokayuktas Bill

The Lokpal and Lokayuktas Bill was recently passed in Parliament. The Lokpal and Lokayuktas Bill, 2011 provides for the establishment of a body of Lokpal for the Union and Lokayukta for States to inquire into allegations of corruption against certain public functionaries. Lokpal will consist of a chairperson and a maximum of eight members, of which 50 percent shall be judicial members. The bill seeks to establish the institution of Lokpal at the Centre and Lokayukta at the level of States and to provide a uniform vigilance and anti-corruption road map at the Centre and in the States.

The selection of Chairperson and Members of Lokpal shall be through a Selection Committee consisting of Prime Minister, Speaker of Lok Sabha, Leader of Opposition in the Lok Sabha, Chief Justice of India or a sitting Supreme Court judge nominated by CJI, eminent jurist to be nominated by the President of India on the basis of recommendations of the first four members of the Selection Committee.

The jurisdiction of the Lokpal will include the Prime Minister except on allegations of corruption relating to international relations, security, the public order, atomic energy and space and unless a Full Bench of the Lokpal and at least two-thirds of members approve an inquiry. It will be held in-camera and if the Lokpal so desires, the records of the inquiry will not be published or made available to anyone. The Lokpal will also have jurisdiction over Ministers and MPs but not in the matter of anything said in Parliament or a vote given there.

Lokpal's jurisdiction will cover all categories of public servants. Group A, B, C or D officers defined as such under the Prevention of Corruption Act, 1988 will be covered under the Lokpal but any corruption complaint against Group A and B officers, after inquiry, will come to the Lokpal. However, in the case of Group C and D officers, the Chief Vigilance Commissioner will investigate and report to the Lokpal. However, it provides adequate protection for honest and upright Public Servants.

There will be a Directorate of Prosecution under the CBI headed by a Director. The CBI Director will be appointed by a collegiums comprising the Prime Minister, the Leader of the Opposition and the Chief Justice of India. The Prosecution Director will be appointed on the recommendation of the Central Vigilance Commission for two-year tenure.

If the Lokpal decides to proceed on any complaint, it can order a preliminary inquiry against any public servant by its Inquiry Wing or any agency, including the CBI, to ascertain if there is a prima facie case, and the public servant will be given an opportunity of being heard.

The Lokpal will have powers of superintendence over cases referred by it to the CBI. Any officer of the CBI investigating a case referred to it by the Lokpal will not be transferred without its approval. The Centre will fund the CBI investigations into the matters referred to it by the Lokpal.

The Bill provides for the Lokpal comprising a chairperson and a maximum of eight members, of whom 50 per cent will be judicial members and the rest from amongst the SC, the ST, the OBCs, minorities and women. Apart from the Inquiry Wing, there will be an independent Prosecution Wing of the Lokpal.

The Bill incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while prosecution is pending. It lays down clear time lines for Preliminary enquiry & investigation and trial and towards this end, the Bill provides for setting up of Special Courts. All entities receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of Rs. 10 lakhs per year are brought under the jurisdiction of Lokpal

The term of the Lokpal will be five years or till the chairman and members turn 75. There will be separate laws on a Citizens' Charter and Judicial Accountability.
