

Anti Defection Law



Parliament added anti-defection Law to the Constitution as the Tenth Schedule in 1985.

The anti-defection law punishes individual Members of Parliament (MPs)/MLAs for leaving one party for another.

It aimed to bring stability to governments by discouraging legislators from changing parties.

Tenth Schedule

- ✓ The Tenth Schedule - popularly known as the Anti-Defection Act - was included in the Constitution via the 52nd Amendment Act, 1985 and sets the provisions for disqualification of elected members on the grounds of defection to another political party.
- ✓ It was a response to the toppling of multiple state governments by party-hopping MLAs after the general elections of 1967.

Exceptions

- ✓ It allows a group of MP/MLAs to join (i.e. merge with) another political party without inviting the penalty for defection. And it does not penalise political parties for encouraging or accepting defecting legislators.
- ✓ **Condition:** At least two-thirds of the members of a party have to be in favour of a "merger" for it to have validity in the eyes of the law.
- ✓ The members disqualified under the law can stand for elections from any political party for a seat in the same House.
- ✓ The decision on disqualification on the ground of defection are referred to the Chairman or the Speaker of such House, which is subject to 'Judicial review'.

Grounds of Disqualification

- ✓ If an elected member voluntarily gives up his membership of a political party.
- ✓ If he votes or abstains from voting in such House contrary to any direction issued by his political party or anyone authorised to do so, without obtaining prior permission.
- ✓ As a pre-condition for his disqualification, his abstention from voting should not be condoned by his party or the authorised person within 15 days of such incident.
- ✓ If any independently elected member joins any political party.
- ✓ If any nominated member joins any political party after the expiry of six months.