

# Prime Minister and Council of Ministers

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## Manifest Pedagogy:

The Council of Ministers was appointed recently and the allotment of portfolio. Though current retail details about who holds what portfolio does not make any sense for UPSC preparation but static portions related to the topic become important.

### **In news**

Swearing of new Council of Ministers

### **Placing it in the syllabus**

Indian Constitution: Functions and responsibilities of the Union

### **Static dimensions**

- **PM appointment, functions and powers**
- Council of Ministers and allotment of portfolio to them
- Important Constitutional provisions with respect to a minister
- Cabinet and council of Minister differences

### **Current dimensions**

- Role of executive (PM and CoM) in a Parliamentary system

### **Content**

#### **PM appointment, functions and powers**

- The constitution of India does not contain any specific procedure for the selection and appointment of the Prime

Minister. But the article 75 of the constitution says only that the Prime

- Minister shall be appointed by the president. However, this does not imply that the president is free to appoint anyone as the Prime Minister.
- As per the conventions of the parliamentary system of government, the President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. But, when no party has a clear majority in the Lok Sabha, then the President may exercise his personal discretion in the selection and appointment of the Prime Minister.
- In such a situation, the President usually appoints the leader of the largest party or coalition in the Lok Sabha as the Prime Minister and asks him/her to seek a vote of confidence in the House within a month. (Charan Singh was the first PM to be appointed so)
- Another situation when the President may have to exercise his individual judgement in the selection and appointment of the Prime Minister, that is, when the Prime Minister in office dies suddenly and there is no obvious successor (Rajiv Gandhi was appointed as PM when Indira Gandhi was assassinated)
- As per the ruling of Delhi high Court regarding majority that the Constitution does not require a person must prove his majority in the Lok Sabha before he is appointed as the Prime Minister. The President may first appoint him the Prime Minister and then ask him to prove his majority in Lok Sabha within a reasonable period.
- The Supreme Court of India in its verdict in 1997 mentions that a person who is not a member of either House of Parliament can be appointed as Prime Minister for six

months, within which, he should become a member of either House of Parliament; otherwise, he ceases to be the Prime Minister.

- Further, constitutionally the Prime Minister may be a member of any of the two Houses of parliament.

### **Powers and Functions of PM**

The Prime Ministers powers and functions can be mentioned under the following heads;

#### **With respect to Council of Ministers**

As head of the Union council of ministers PM enjoys the following powers :

- The Prime Minister 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.
- The Prime Minister allocates and reshuffles various portfolios among the ministers.
- The Prime Minister can ask a minister to resign or advise the President to dismiss him in case of difference of opinion.
- It is the PM who presides over the meeting of the council of ministers and influences its decisions.
- The Prime Minister guides, directs, controls, and coordinates the activities of all the ministers.
- He can bring about the collapse of the council of ministers by resigning from office.

#### **With respect to the President**

Following are the powers of the Prime Minister in relation to the President:

- Prime Minister is the principal channel of communication between the President and the council of ministers. It is the duty of the prime minister :
1. 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;
2. 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
  3. 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.

- He advises the president with regard to the appointment of important officials like Attorney General of India, Comptroller and Auditor General of India, the chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.

### **With respect to Parliament**

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

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

### **Other Powers & Functions of Prime Minister**

In addition to the above-mentioned three major roles, the Prime Minister has various other roles. They are:

- PM is the chairman of the NITI Aayog, Governing council of NITI Aayog, National Integration Council, Inter-State Council and National Water Resources Council.
- He plays a significant role in shaping the foreign policy of the country.
- He is the chief spokesman of the Union government.

- He is the crisis manager-in-chief at the political level during emergencies.
- As a leader of the nation, he meets various sections of people in different states and receives memoranda from them regarding their problems, and so on.
- He is the leader of the party in power.
- He is political head of the services.

## **Council of Ministers**

The Indian constitution provides for a parliamentary form of government based on British pattern and the council of ministers headed by the prime minister is the real executive authority in Indian's politico-administrative system.

## **Important Constitutional provisions with respect to Council of Ministers:**

### **Article 74:**

- It mentions that there shall be a Council of Ministers with the Prime Minister as 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 reconside-ration(44th amendment)
- It also mentions that The advice tendered by Ministers to the President shall not be inquired into in any court.

### **Article 75:**

- It mentions that 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**
- It also mentions that theThe total number of ministers,

including the Prime Minister, in the Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha.

- As per the 91st Amendment Act of 2003, A member of either house of Parliament belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- It states that the ministers shall hold office during the pleasure of the President.
- It mentions that the council of ministers shall be collectively responsible to the Lok Sabha.
- As per the article, the salaries and allowances of ministers shall be determined by the Parliament.
- According to this the President shall administer the oath of office and secrecy to a minister.
- It mentions a minister who is not a member of the Parliament (either house) for any period of six consecutive months shall cease to be a minister.

### **Cabinet and council of Minister: differences**

<b>Cabinet</b>	<b>Council of Ministers(CoM)</b>
Cabinet is a smaller body consisting of 15 to 20 ministers.	CoM is a wider body consisting of 60 to 70 ministers.
It includes the cabinet ministers only. therefore, it is a part of the council of ministers.	It includes all the three types of ministers, that is, cabinet ministers, ministers of state, and deputy ministers
Cabinet exercises, in practice, the powers of the council of ministers and thus, acts for the latter.	Powers vested with it are in theory

<p>Usually Cabinet meets, as a body, frequently and usually once in a week to deliberate and take decisions regarding the transaction of government business. Thus, it has collective functions.</p>	<p>CoM does not meet, as a body, to transact government business. It has no collective functions.</p>
<p>It supervises the implementation of its decisions by the council of ministers.</p>	<p>It implements the decisions taken by the cabinet.</p>

<p>It was incorporated by the 44th Constitutional Amendment Act in Article 352 of the Constitution in 1978. Thus, it did not find a place in the original text of the Constitution. Now also, Article 352 only defines the cabinet saying that it is 'the council consisting of the prime minister and other ministers of cabinet rank appointed under Article 75' and does not describe its powers and functions. In other words, its role in India's politico-administrative system is based on the conventions of parliamentary government as developed in Britain.</p>	<p>It is a constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution. However, the Constitution does not mention its size and classification. Its size is determined by the prime minister according to the exigencies of the time and requirements of the situation. Its classification into a three-tier body is based on the conventions of parliamentary government as developed in Britain. It has, however, got a legislative sanction. Thus, the Salaries and Allowances Act of 1952 defines a 'minister' as a 'member of the council of ministers, by whatever name called, and includes a deputy minister</p>
<p>It enforces the collective responsibility of the council of ministers to the Lower House of Parliament.</p>	<p>It is collectively responsible to the Lower House of the Parliament.</p>

**Role of executive (PM and CoM) in a Parliamentary system**

In a parliamentary system the legislature enacts laws and the executive plays an important role in implementing them. As the head of the CoM Prime Minister makes important decisions



because he/ she is the real executive authority. It is Prime Minister who decides the size of CoM

Prime Minister is the cornerstone of the CoM and the cabinet as well, his position is such that if he makes his resignation it would result in the fall of CoM and the government as well. When it comes to the relationship between the Prime Minister and the cabinet, the Prime Minister is central to its formation, central to its life, and central to its death. He is the pivot around which the entire governmental machinery revolves.

CoM work as a team they sink and swim together. And the CoM is led by the Prime Minister. Though it has the power to make decisions but CoM is bound by the decisions made by Cabinet