



## LOK SABHA SECRETARIAT RESEARCH AND INFORMATION DIVISION

# INFORMATION BULLETIN

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## Oath or Affirmation

**B**efore taking their seats in the Chamber of Lok Sabha, every member is required, under article 99 of the Constitution of India, to make and subscribe, before the President or some person appointed in that behalf by him, oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution.

### The Oath or Affirmation

I, A.B., having been elected (or nominated) a member of the House of People do *swear in the name of God/solemnly affirm* that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.

Therefore, pursuant to the provision contained in the Constitution and following the normal parliamentary practice, the person known as Speaker *Pro tem* is appointed by the President after every General Elections from among the members of the House to administer oath/affirmation to the newly elected members of Lok Sabha and conduct the election of the Speaker. The Speaker *Pro tem*, to whom the oath is administered by the President himself in the *Rashtrapati Bhawan* signs the *Roll of Members* whereupon he is deemed to have taken seat in the House. Along with Speaker *Pro tem*, two or three other senior members of the House are also appointed by the President as the persons before any of whom the newly elected members may make and subscribe the oath or affirmation. Later on, at the commencement of the first sitting of Lok Sabha, these other members are appointed by the Speaker *Pro tem* on the Panel of Chairmen to enable them to preside over the House in his absence during a sitting.

### Speaker *Pro tem*

In accordance with the second proviso to article 94, the Speaker of the dissolved Lok Sabha vacates the Office immediately before the first meeting of the new Lok Sabha, constituted after the General Elections. There being thus neither Speaker nor Deputy Speaker, the President, under article 95(1), appoints a member to preside over the first sitting of the new Lok Sabha till the election of the Speaker. The member so appointed is known as the Speaker *Pro tem*. Normally, the seniormost member of the Lok Sabha is chosen for appointment as the Speaker *Pro tem*. He has all the powers of the Speaker under the Constitution, Rules of Procedure or otherwise. On the election of the Speaker, the Office of the Speaker *Pro tem* automatically ceases to exist.

### Initial Process

As soon as may be, after the result of an election has been declared, the Returning Officer reports the result to the Union Government, the Election Commission and the Secretary-General of the Lok Sabha. The Returning Officer then grants to the successful candidate a certificate of election and obtains from him an acknowledgement of its receipt duly signed by him and sends the acknowledgement by registered post to the Secretary-General. In the case of a member nominated by the President, the Ministry of Law issues to the member concerned a letter of nomination for being presented at the Table of the House at the time of making and subscribing the oath or affirmation.

*Members are required to bring along with them this certificate of election or, as the case may be, certified copy of the notification nominating them as members, in original, during the oath/affirmation ceremony and show*

at the Table of the House. A paragraph to this effect is also published in the Lok Sabha Bulletin informing them about the time and date of the sitting and requesting them to give advance intimation if they are unable to take the oath/affirmation on the day and so on.

When the certificates are shown by the members to an officer at the Table, he, where necessary, verifies the signature of the member with his signature in the acknowledgement received from the Returning Officer. After verifying the identity of the member-elect, the officer concerned signs on the back of the certificate in token of such verification and returns the certificate to the member. Before making and subscribing an oath/affirmation and taking their seats in the House, members are required to deposit with the Secretary-General their election certificates or, as the case may be, certified copy of the notification nominating them as members. A book containing the list of members elected to the Lok Sabha is laid on the Table by the Secretary-General. The acknowledgements are also kept at the Table for the purpose of verification, if necessary.

### Procedure for making Oath or Affirmation

Making and subscribing the oath or affirmation is not a proceeding of the House if the person administering the oath is other than a Presiding Officer of the House and that the oath is taken outside the House. But if the oath is administered at a sitting of the House, it forms part of the proceedings and the Speaker *Pro tem*'s/Speaker's decision over the manner in which the oath is to be administered is final.

The first sitting of a newly elected House is usually devoted to oath or affirmation by members. On that day, though the members assemble and sit in the House, they are deemed to have taken their seats in the House only after making and subscribing the oath or affirmation.

*Swearing in of members is a solemn occasion.* It is expected that nothing should be done by members in the House to mar or disturb the solemnity of the occasion. A convention has developed that before the business commences on the day, the Speaker *Pro tem* calls upon the members to stand in silence to mark the solemn occasion. The following observation was made by the Speaker during the 15th Lok Sabha:

*We are meeting today on a solemn occasion. A new Lok Sabha has been elected under the Constitution charged with great and heavy responsibilities for the welfare of the country and our people. It is fit and proper, as is customary on such an occasion, that we all stand in silence for a short while before we begin our proceedings.*

The oath or affirmation is made and subscribed by members individually in accordance with a set procedure. On the name of a member being called by the Secretary-General, the member proceeds from the place he is occupying to the right side of the Secretary-General's table, where a copy of the form of oath or affirmation, as the

case may be, in the language in which the member desires to make the oath or affirmation, is handed to him.

### Language of Oath or Affirmation

Members can make and subscribe the oath or affirmation in English or in any of the twenty-two languages (Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santali, Sindhi, Tamil, Telugu and Urdu) specified in the Eighth Schedule to the Constitution. The form of oath or affirmation given in the Third Schedule to the Constitution is adhered to in the case of the English version. Likewise, the forms used in the Third Schedule of the translations of the Constitution in various languages are adhered to, with some modification in certain cases.

*The member faces the Chair while making and subscribing the oath or affirmation and then goes up to and shakes hands with the Speaker Pro tem, who gives the member permission to take his seat in the House. The member then passes behind the Chair to the other side of the Secretary-General's table, where he signs the Roll of Members and thereafter, takes his seat in the House.*

### The Roll of Members

The Roll of Members is a Register which is kept on the Table during a session and remains in the custody of an officer of the House during the inter-session period.

*In the case of a member who is ill and is unable to move from his place, the oath or affirmation may be made by him at the place he is occupying in the House, if he so desires. In such a case, the officer at the Table takes the relevant oath or affirmation card to the member. After the oath or affirmation has been made by the member, the Roll of Members is given to him at his seat where he signs it. There has been an instance when a member could not read the oath form due to blindness, another member read out the oath which was repeated by the former.*

### Making and subscribing the Oath or Affirmation

Members make and subscribe the oath or affirmation on their names being called by the Secretary-General for the purpose. After the Prime Minister or the Leader of the House, as the case may be, the Leader of the Opposition, members of Panel of Chairmen and Ministers, etc. have made and subscribed the oath or affirmation, other members are called State wise. The names of the members who are not present for the swearing in the first round are called again at the end.

While making and subscribing the oath or affirmation in the House, members are required to read the same style of their name as given in the declaration regarding their election received from the Returning Officer.

### **Time limit for Oath of Affirmation**

Members, who do not make and subscribe the oath or affirmation on the first day, can do so on any subsequent day in the same session or a later session at the commencement of a sitting of the House. However, on request, a member has been allowed to take oath during the inter-session period in the Speaker's Chamber.

*Where a person ceases to be a member as a result of an order of Court in an election petition and another is declared elected in his place and takes seat in the House, the former has to make and subscribe the oath or affirmation again, if the order declaring his election void is subsequently reversed by the higher Court. In such cases, the membership of the other member automatically stands cancelled.*

### **Rights of members prior to making Oath or Affirmation**

A member-elect has only limited rights before he subscribes to or makes oath/affirmation and takes his seat in the House. He is *not entitled* to take part in any debate and discussion or make any observation in the House.

*In case, a member sits or votes in the House without making and subscribing the oath or affirmation, he is liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt*

due to the Union, as laid down in article 104 of the Constitution.

However, his election as a member even before taking oath/affirmation entails him to the following rights:

- *A person becomes a member of the House from the date on which he is declared elected by the Returning Officer;*
- *He is entitled to receive his salary as a member from the date of publication of the notification of the Election Commission constituting the House;*
- *Being entitled to other rights of a member, he can be elected to the Office of the Speaker or Deputy Speaker;*
- *He can be nominated or elected to a Select or other Committee of the House but without exercising the function as a member of such Committee;*
- *He can also attend the Address by the President to the members of both Houses of Parliament;*
- *Though he can give notice of a question or a resolution, which can be admitted, neither he nor any other member on his behalf is entitled to ask the question or move the resolution;*
- *He is entitled to ask for leave of absence from the sittings of the House in order to guard against vacation of his seat;*
- *He can also resign his seat before making and subscribing the oath or affirmation and taking seat in the House.*

Prepared by Rachana Sharma, Joint Director of Lok Sabha Secretariat under the supervision of P.K. Misra, Additional Secretary, Kalpana Sharma, Director and Samita Bhowmick, Additional Director, on the basis of published sources. It is intended to serve as background aid.