

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

## SCHEDULES.

### FIFTH SCHEDULE

Section 61.

#### COMPOSITION OF PROVINCIAL LEGISLATURES.

##### *General Qualification for Membership.*

- 1 A person shall not be qualified to be chosen to fill a seat in a Provincial Legislature unless he—
- (a) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation or, if it is so prescribed with respect to any Province, the Ruler or a subject of any prescribed Indian State; and
  - (b) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age, and in the case of a seat in a Legislative Council, not less than thirty years of age; and
  - (c) possesses such, if any, of the other qualifications specified in, or prescribed under, this Schedule as may be appropriate in his case.
- 2 Upon the expiration of the term for which he is chosen to serve as a member of a Provincial Legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

##### *Legislative Assemblies.*

- 3 The allocation of seats in Provincial Legislative Assemblies shall be as shown in the relevant Table of Seats appended to this Schedule.
- 4 In the Legislative Assembly of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—
- (i) the number specified in the third column shall be general seats, of which the number specified in the fourth column shall be reserved for members of the scheduled castes and, in the case of Bombay, seven shall be reserved for Marathas;
  - (ii) the numbers specified in the next ten columns shall be the numbers of seats to be filled by persons chosen to represent respectively—(a) backward areas and backward tribes; (b) the Sikh community; (c) the Muhammadan community; (d) the Anglo-Indian community; (e) the European community; (f) the Indian Christian community; (g) the interests of commerce, industry, mining and planting; (h) landholders; (i) universities; and (j) the interests of labour; and
  - (iii) the numbers specified in the last five columns shall be the numbers of seats (being either general seats, Sikh seats, Muhammadan seats, Anglo-Indian seats or Indian Christian seats) reserved for women.

In the Punjab one of the landholders' seats shall be a seat to be filled by a Tumandar.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- 5 A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—
- (i) for the election of persons to fill the general seats;
  - (ii) for the election of persons to fill the Sikh seats, if any;
  - (iii) for the election of persons to fill the Muhammadan seats;
  - (iv) for the election of persons to fill the Anglo-Indian seats, if any;
  - (v) for the election of persons to fill the European seats, if any; and
  - (vi) except in the case of Bihar, for the election of persons to fill the Indian Christian seats, if any,
- or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

- 6 The required number of general seats to be reserved for members of the scheduled castes, and in the Province of Bombay for Marathas, shall be reserved by reserving for members of those castes or, as the case may be, for Marathas one or more seats in each of so many of the general territorial constituencies as may be necessary, so, however, that in each such constituency there shall be at least one unreserved seat.

- 7 In a province in which any general seats are reserved for members of the scheduled castes, all members of those castes who are entitled to vote in a constituency in which any seat is so reserved shall be entitled to take part in a primary election held for the purpose of electing four candidates for each seat so reserved, and no member of those castes not elected as a candidate at such an election shall be qualified to hold—

- (a) a seat so reserved in that constituency;
- (b) if it is so prescribed as respects that Province, any seat in that constituency.

In relation to bye-elections this paragraph shall have effect with such adaptations and modifications as may be prescribed.

- 8 The persons to fill the seats specified in columns fifteen to nineteen of the Table of Seats as seats to be filled by women shall be chosen in territorial constituencies, which shall be either—

- (a) constituencies formed under paragraph five of this Schedule; or
- (b) constituencies specially formed for the purpose of electing women members.

- 9 The provisions of the Sixth Schedule to this Act shall have effect with respect to the persons who are entitled to vote at elections in the territorial constituencies mentioned in paragraphs five and eight of this Schedule.

- 10 In a Province in which any seats are to be filled by representatives of backward areas or backward tribes, representatives of commerce, industry, mining and planting, representatives of landholders, representatives of universities or representatives of labour, persons to fill those seats, and in Bihar the person to fill the Indian Christian seat, shall be chosen in such manner as may be prescribed :

Provided that in a Province in which any seats are to be filled by representatives of backward areas or backward tribes some or all of those seats may, if it is so

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

prescribed, be treated in the prescribed manner as additional general seats to be reserved for representatives of such areas or tribes.

- 11 In the Punjab the landholder's seat to be filled by a Tumandar shall be assigned to such constituency as may be prescribed.
- 12 A person shall not be qualified to hold a seat in the Legislative Assembly of a Province unless—
- (a) in the case of a seat to be filled by a woman, by a European, by an Indian Christian, by a representative of backward areas or backward tribes, by a representative of commerce, industry, mining and planting, by a representative of universities or by a representative of labour, he possesses such qualifications as may be prescribed; and
  - (b) in the case of any other seat, he is entitled to vote in the choice of a member to fill that seat or any other seat of a similar class in that Province.

*Legislative Councils.*

- 13 The allocation of seats in the Legislative Councils of Provinces having such Councils shall be as shown in the relevant Table of Seats appended to this Schedule.
- 14 In the Legislative Council of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—
- (a) the number specified in the third column shall be general seats;
  - (b) the numbers specified in the fourth, fifth and sixth columns shall be seats to be filled by persons chosen to represent respectively the Muhammadan community, the European community and the Indian Christian community;
  - (c) the number specified in the seventh column shall be seats to be filled by persons elected by the members of the Legislative Assembly of the Province in accordance with the system of proportional representation by means of the single transferable vote; and
  - (d) the number specified in the eighth column shall be seats to be filled by persons chosen by the Governor in his discretion.
- 15 A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—
- (i) for the purpose of electing persons to fill the general seats;
  - (ii) for the purpose of electing persons to fill the Muhammadan seats;
  - (iii) for the purpose of electing persons to fill the European seats;
  - (iv) for the purpose of electing persons to fill the Indian Christian seats, if any,
- or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

- 16 At an election in a constituency to fill a general seat, persons entitled to vote in a Muhammadan constituency, a European constituency, or an Indian Christian constituency shall not be entitled to vote.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

In the case of a Muhammadan constituency, a European constituency, or an Indian Christian constituency no person shall be entitled to vote who is not, as the case may be, a Muhammadan, a European, or an Indian Christian.

17 The qualifications entitling a person to vote in territorial constituencies at elections of members of a Provincial Legislative Council, and the qualifications to be possessed, by members of such Councils, shall be such as may be prescribed.

18 The term of office of a member of the Legislative Council of a Province, other than a member chosen to fill a casual vacancy, shall be nine years, but upon the first constitution of the Council the Governor in his discretion shall make by order such provision as he thinks fit, by curtailing the term of office of some of the members then chosen, for securing that, as nearly as may be, one-third of the members holding seats of each class shall retire in every third year thereafter.

A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

*General.*

19 In the foregoing provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say,—

" a European, " " an Anglo-Indian, " " an Indian Christian " and " the scheduled castes " have the same meanings respectively as they have in Part I of the First Schedule to this Act;

" backward areas " and " backward tribes " mean respectively such areas and tribes as His Majesty in Council may from time to time declare to be areas and tribes to which a special system of representation is more appropriate ; and

" prescribed " means prescribed by His Majesty in Council or, so far as regards any matter which under this Act the Provincial Legislature or the Governor are competent to regulate, prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph.

20 In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or, after the constitution of the Provincial Legislature, by Act of that Legislature (where the matter is one with respect to which that Legislature is competent to make laws), the Governor, exercising his individual judgment, may make rules for carrying into effect the foregoing provisions of this Schedule and the provisions of the Sixth Schedule and securing the due constitution of the Provincial Legislature and in particular, but without prejudice to the generality of the foregoing words, with respect to—

(i) the notification of vacancies, including casual vacancies, and the proceedings to be taken for filling vacancies;

(ii) the nomination of candidates;

(iii) the conduct of elections, including the application to elections of the principle of proportional representation by means of the single transferable vote, and the rules to regulate elections where certain of the seats to be filled are reserved for members of the scheduled classes, or in the case of Bombay for Marathas, or where certain of the seats allotted to any community must be held by a woman or by a specified type of landholder ;

(iv) the expenses of candidates at elections;

(v) corrupt practices and other offences at or in connection with elections;

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

- (vi) the decision of doubts and disputes arising out of or in connection with elections; and
- (vii) the manner in which the rules are to be carried into effect. Table of Seats

TABLE OF SEATS.

PROVINCIAL LEGISLATIVE ASSEMBLIES.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.
Province	Total Seats	General Seats.		Seats for representatives of backward areas and tribes.	Seats for Muhammadans.	Anglo-Indian Seats.	European Seats.	Christian Seats.	Seats of Indian landholders of industry, mining and planting.	Seats of density-representatives of labour.	Seats for Women.							
		Total of Seats reserved for Scheduled Castes.	General Seats.								General	Muhammadan	Anglo-Indian	European	Christian	Landholder	Density-representative	General
Madras	215	146	30	1	—	28	2	3	8	6	6	1	6	6	—	1	—	1
Bombay	175	114	15	1	—	29	2	3	3	7	2	1	7	5	—	1	—	—
Bengal	250	78	30	—	—	117	3	11	2	19	5	2	8	2	—	2	1	—
United Provinces	228	140	20	—	—	64	1	2	2	3	—	1	3	4	—	2	—	—
Punjab	175	42	8	—	31	84	1	1	2	1	5	1	3	1	1	2	—	—
Bihar	152	86	15	7	—	39	1	2	1	4	4	1	3	3	—	1	—	—
Central Provinces and Berar.	112	84	20	1	—	14	1	1	—	2	3	1	2	3	—	—	—	—
Assam	108	47	7	9	—	34	—	1	1	11	—	—	4	1	—	—	—	—
North Western Frontier Province.	150	9	—	—	3	36	—	—	—	—	2	—	—	—	—	—	—	—
Orissa	60	44	6	5	—	4	—	—	1	1	2	—	1	2	—	—	—	—
Sind	60	18	—	—	—	33	—	2	—	2	2	—	1	1	—	1	—	—

In Bombay seven of the general seats shall be reserved for Marathas.

In the Punjab one of the Landholders' seats shall be a seat to be filled by a Tumandar.

In Assam and Orissa the seats reserved for women shall be non-communal seats.

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

TABLE OF SEATS.—Provincial Legislative Councils.

1. Province.	2. Total of Seats.	3. General Seats.	4. Muhammadian Seats.	5. European Seats.	6. Indian Christian Seats.	7. Seats to be filled by Legislative Assembly.	8. Seats to be filled by Governor.
Madras	{ Not less than 54	} 35	7	1	3	— {	Not less than 8.
	{ Not more than 56						Not more than 10.
Bombay	{ Not less than 29	} 20	5	1	—	— {	Not less than 3.
	{ Not more than 30						Not more than 4.
Bengal	{ Not less than 63	} 10	17	3	—	27 {	Not less than 6.
	{ Not more than 65						Not more than 8.
United Provinces	{ Not less than 58	} 34	17	1	—	— {	Not less than 6.
	{ Not more than 60						Not more than 8.
Bihar	{ Not less than 29	} 9	4	1	—	12 {	Not less than 3.
	{ Not more than 30						Not more than 4.
Assam	{ Not less than 21	} 10	6	2	—	— {	Not less than 3.
	{ Not more than 22						Not more than 4.