

# 5th Schedule of Indian Constitution

In 2016, Rajasthan, Orissa, Maharashtra, Madhya Pradesh, Himachal Pradesh, Gujarat, Chhattisgarh, Jharkhand, Telangana, and Andhra Pradesh were the 10 Indian states with the scheduled areas. According to the 5th Schedule of Indian Constitution, an area is declared as a Scheduled Area if it fulfils the following criteria-

- Economic backwardness of the area (in comparison to its neighbouring areas),
- a viable entity for administration such as taluk, block, or district,
- the Area's reasonable size and compactness,
- tribal population's preponderance.

Though the Indian Constitution doesn't spell out this criterion. Still, there are principles for declaring the partially-excluded and excluded areas under the Government of India Act 1935. In the 5th Schedule of the Indian Constitution, the President can declare any such area or the whole state as a scheduled area. In consultation with the Governor, the President is also empowered to alter the boundary of such areas by reducing it or increasing the size of the area.

## Provisions of 5th Schedule of Indian Constitution

The provisions of the 5th Schedule of Indian Constitution are as follows:

1. The Governor of the states with scheduled areas had to submit an annual report to the President or whenever the president asked about the scheduled area's administration.
2. The executive powers are enjoyed by the Union government to give directions to the state for the Scheduled area's administration.
3. The establishment of a TAC (Tribes Advisory Council) in any state with the scheduled areas is provided by the 4th paragraph of the 5th schedule of the Indian Constitution.
4. The matters addressing welfare shall be advised by the TAC. However, the Governor refers to the matters related to the advancement of the scheduled tribes in the state.
5. The Governor has the right to regulate or prescribe the total number of members of the council, their mode of appointment, the Chairman's appointments, the respective officers and other servants. He is also responsible for regulating the conduct of its meetings and their procedures along with other incidental matters.
6. Through public notification, the Governor can direct that any Parliamentary act or the State legislature shall apply to a scheduled area or its part, subject to any expectations or modifications or shall not. Also, the Governor can make regulations for the maintenance of a good and peaceful government in such area or the state and these regulations may restrict or prohibit the land transfer within or outside the ST members of that area, regulating allotting of lands to ST members, regulated the business of an individual or the community as money-lenders.
7. Another important provision of the fifth schedule is that the Governor may amend or repeal any Parliamentary act or the State legislature in the making of such regulations after obtaining President's assent.
8. Unless the Governor says there shall be no regulations. If there is a TAC, then it must be consulted.

## 6th Schedule of Indian Constitution

Similar to the 5th schedule of Indian Constitution, the 6th Schedule of the Indian Constitution possesses certain specific provisions for tribal administration in Mizoram, Meghalaya, Tripura, and Assam. The tribes in these states have not assimilated in life much as compared to the other states. Also, they have adopted a different culture. Thus, they are treated under a different schedule than the rest of the states. The provisions under the 6th Schedule of Indian Constitution are as follows:

- A sizable amount of Constitutional autonomy is given to the tribal areas in Mizoram, Meghalaya, Tripura, and Assam.
- The tribal areas are considered districts in these four states and fall under the state's executive authority.
- The Governor enjoys the right to organise or reorganise these tribal districts.
- The Governor can divide a district into different autonomous regions if different types of tribes exist in a district.
- An autonomous council comprises 30 members- 4 are nominated by the Governor while 26 are appointed based on adult Franchise. The members nominated by the Governor hold the office at the Governor's pleasure, while the elected ones are nominated for a fixed term of 5 years.
- Each autonomous district also possesses a regional council. Both district and regional councils are responsible for administering the areas under their respective jurisdiction.
- These councils can make laws on divorce, marriage, village administration, shifting cultivation, water, canal, forest, and other specific matters. However, Governor's assent is required as a basic necessity for lawmaking on such matters.
- These councils are empowered to assess and collect land revenue and impose certain specified taxes on these tribal areas.
- To report the matters related to the autonomous regions or districts' administration, the Governor can appoint a commission. He may dissolve a regional or district council on the recommendation of the commission.

Thus provisions of the 5th schedule and the 6th Schedule of the Indian Constitution have proven to be very effective in the effective administration of the scheduled and tribal areas coming under their ambit.

## Schedule 5 of Indian Constitution: Article 244 and Article 244 A

Article 244 and Article 244 A of the Indian Constitution holds the provision for the Scheduled and Tribal areas in India-

- **Article 244 of the Constitution** - It deals with the scheduled and tribal area's administration
- **Article 244 A of the Constitution** - It deals with the formation of an autonomous state. It includes states that include Assam's tribal areas with a council of ministers.

However, according to Article 339 of the Constitution, the Union government has control over the administration of the Scheduled Areas and the welfare of the Scheduled tribes.