

ELECTION TO THE OFFICE OF VICE-PRESIDENT OF INDIA

FAQs

1. Q. Who elects the Vice-President of India?

A. The Vice-President is elected by an Electoral College, which consists of the members of the Lok Sabha and Rajya Sabha (both elected and nominated members).

2. Q. What is the term of the office of the Vice-President?

A. The Vice-President holds office for a term of 5 years from the date on which he enters upon his office. However, notwithstanding the expiration of his term, he shall continue to hold office, until his successor enters upon his office. In the case of death, removal or resignation of the Vice-President, the Constitution does not provide any method of succession, apart from a fresh election. However, in such event, the Deputy Chairman can function as the Chairman of the Rajya Sabha.

3. Q. When is the election of the Office of Vice-President of India held?

A. Under the provisions of sub-section (3) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, the notification under sub-section (1) of section 4 of the said Act calling the election can be issued by the Election Commission on or after the sixtieth day before the expiry of the term of office of the outgoing Vice-President. The election schedule shall be so fixed that the Vice-President elect is able to enter upon the office on the day following the expiry of the term of the outgoing Vice-president.

4. Q. What is the legal framework for the election to the office of Vice-President of India?

A. Election to the office of Vice-President of India is governed by the provisions contained in Articles 64 to 68 of the Constitution of India and the Presidential and Vice-Presidential Elections Act, 1952 and the Rules made thereunder.

5. Q. Who conducts the election to the Office of Vice-President of India?

A. Under Article 324 of the Constitution of India, the authority to conduct elections to the Office of Vice-President is vested in the Election Commission of India.

6. Q. What electoral system/process is adopted for the election to the office of the Vice-President?

A. As per Article 66(1) of the Constitution of India, the election of the Vice-President shall be held in accordance with the system of proportional representation by means of single transferable vote and the voting at such election shall be by secret ballot.

7. Q. What are the Qualifications required by a candidate to contest the election to the Office of the Vice-President of India?

A. A candidate should satisfy the following requirements to contest the election to the Office of Vice-President: -

1. Must be a citizen of India.
2. Must have completed 35 years of age (on the date of scrutiny of nomination).
3. Must be eligible to be a member of the Rajya Sabha.
4. Must not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

{The offices of President and Vice-President, Governor of any State and Ministers of Union or State are not deemed to be office of profit for this purpose}

8. Q. Apart from the above what are the conditions to be fulfilled by a candidate for his nomination to be valid?

A. Nomination paper of a candidate for the election in the prescribed form (Form 3 appended to the Presidential and Vice-Presidential Elections Rules, 1974) has to be subscribed by at least **twenty** electors as proposers and at least another **twenty** electors as seconders and has to be presented to the Returning Officer, between 11 A.M. and 3 P.M on any day appointed for the purpose by the Election Commission, either by the candidate himself or by any of his proposers or seconders.

The Security Deposit for the election of Rs.15000/- should also be deposited either in cash with the Returning Officer or a receipt showing that the amount has been deposited by the candidate or on his behalf in the Reserve Bank of India or in a Government Treasury should be furnished along with the nomination paper.

The candidate is also required to furnish a certified copy of the entry showing his name in the current electoral roll for the Parliamentary Constituency in which the candidate is registered as an elector.

9. Q. Who is appointed the Returning Officer/Assistant Returning Officer for the election to the Office of Vice-President of India? Who makes such appointment?

A. By convention, the Secretary General, Lok Sabha or the Secretary General, Rajya Sabha is appointed as the Returning Officer, by rotation. Two other senior officers of the Lok Sabha/Rajya Sabha Secretariat are appointed as the Assistant Returning Officers. The Election Commission of India makes such appointments. {For the current (2017) election to the Office of Vice-President, the Secretary General, Rajya Sabha has been appointed as the Returning Officer}

10. Q. Can a Candidate submit more than one nomination paper? What would be the security deposit to be made by such candidate?

A. Yes. A candidate can present a maximum of four nomination papers. However, he is required to make only one security deposit in this regard.

11. Q. Can an elector propose or second the nomination of more than one candidate at a Vice-Presidential election?

A. No. An elector can propose or second the name of only one candidate at a Vice-Presidential election. If he subscribes as proposer or seconder, the nomination papers of more than one candidate, his signature shall be deemed operative only on the nomination paper first delivered to the Returning Officer.

12. Q. What are the grounds for rejection of the nomination of a candidate in the Vice-Presidential election?

A. A nomination paper may be rejected on the following grounds: -

1. On the date of scrutiny of nominations, the candidate is not eligible for election as Vice-President under the Constitution; or
2. if any of the proposers or seconders is not qualified to subscribe a nomination paper i.e. he is not an elector at the election; or

3. if it is not subscribed by the required number of proposers and/or seconders;
or
4. if the signature of the candidate or any of the proposers or seconders is not genuine or has been obtained by fraud; or
5. if the nomination paper is not presented in person by the candidate or any of his proposers or seconders or if it is not delivered to the Returning Officer, by the prescribed date and within the hours prescribed for the purpose or at the place appointed for the purpose, or the candidate has failed to make the required security deposit in the prescribed manner.

However, a candidate's nomination shall not be rejected, if he has submitted another set of nomination papers, which are without any irregularity or defect. A candidate's nomination shall not be rejected on the ground of any defect that is not of substantial character.

13. Q. What is the colour and form of ballot papers used in the election to the office of the Vice-President?

A. Ballot papers for Vice-Presidential elections are printed in white colour. The ballot papers are printed with two columns-first column containing the names of the candidates and, the second column, for making preference by the elector for each such candidate. The ballot papers are printed in Hindi and English.

14. Q. Where is the election to the Office of Vice-President held?

A. A Room in the Parliament House in New Delhi is generally fixed as the place of poll.

15. Q. How is the value of votes of members of the Electoral College calculated?

A. Unlike the Presidential election (where the value of votes cast by the Members of Parliament and of the various State Legislative Assemblies is different), the value of every vote cast in the Vice-Presidential election has the same value i.e. 1(one).

16. Q. What is the manner/procedure for recording votes at an election to the office of Vice-President?

A. In accordance with the system of proportional representation by means of single transferable vote, every elector can mark as many preferences, as there are candidates contesting the election. These preferences for the candidates are to be marked by the elector, by placing the figures 1,2,3,4, 5 and so on, against the names of the candidates, in the order of his preference, in the space provided in column 2 of the ballot paper. The preference can be indicated in international form of Indian numerals or in the form used in any Indian language or in Roman form but the preferences can not be indicated in words like 'one', 'two', 'first preference', second preference, etc.

17. Q. Are the provisions of the Anti-Defection Law applicable in Vice-Presidential Elections?

A. No. Members of the Electoral College can vote according to their choice/wish and are not bound by any party whip. The voting is by secret ballot.

18. Q. Are Nominated Members of either House of Parliament eligible to vote at the election to the Office of Vice-President?

A. Yes. All members of both Houses of Parliament including Nominated members are members of the Electoral College. Therefore, nominated members can vote.

19. Q. Can an elector at a Vice-Presidential election exercise his vote by proxy?

A. No.

20. Q. Can a disabled or illiterate elector in a Vice-Presidential election take the help of a companion to record his vote?

A. No. Unlike in Parliamentary and Assembly election, an elector cannot take the help of a companion. He must take the assistance of the Presiding Officer to record his vote.

21. Q. Can an elector vote by post at the Vice-Presidential election for any reason, like illness, business occupation etc.?

A. No. Only a voter under preventive detention can vote by post.

22. Q. How can an elector who is under preventive detention during the period of Vice-Presidential election cast his vote?

A. An elector under preventive detention can cast his vote through postal ballot. For that purpose, the government concerned will intimate his name, his place of detention and other relevant particulars to the Commission and the Commission will send the postal ballot paper to the elector concerned.

23. Q. Is the winner in a Vice-Presidential election elected on the basis of obtaining simple majority? Or by securing a specified quota of votes?

A. As the Vice-Presidential election is held in accordance with the system of proportional representation by means of single transferable vote, every elector has as many preferences as candidate contesting the elections. The winning candidate has to secure the required quota of votes to be declared elected, is 50% of the valid votes cast +(plus) 1.

24. Q. Is it compulsory for an elector at a Vice-Presidential election to mark his preference for all candidates?

A. No. Only the marking of first preference is compulsory for a ballot paper to be valid. Marking other preferences is optional.

25. Q. What are the grounds for rejection of the ballot papers?

A. The Returning Officer shall reject a ballot paper as invalid on which:

1. The figure 1 is not marked; or
2. The figure 1 is marked against the name of more than one candidate or is marked in a manner which renders it doubtful as to which candidate it is intended to apply; or
3. The figure 1 and some other figure is marked against the name of the same candidate; or
4. any mark is made by which the elector may be identified.

A ballot paper may be invalidated if the preferences are marked in words, like, one, two, three or first preference, second preference, third preference, etc. instead of in figures 1, 2, 3 etc. A postal ballot (of an elector under preventive detention) may be rejected if the signature of the elector on the declaration and the attestation form

received with the ballot paper is not duly attested by the authority specified in such form (who is normally the officer-in-charge of the jail or the place of detention).

26. Q. What is the procedure of counting in a Vice-Presidential election? How is the quota of votes to be secured by the winning candidate determined?

A. After the valid ballot papers are segregated from the invalid ones, the valid ballot papers are distributed among the contesting candidates on the basis of first preference marked on each of them for those candidates. The number of votes which each contesting candidate gets in this process is ascertained. The total number of valid votes secured by all contesting candidates is then ascertained by adding together the number of votes secured by each of them. This is the first round of counting.

For ascertaining the quota sufficient to secure the return of a candidate, the total number of valid votes cast at the election as ascertained in the first round of counting is then divided by two, and one is added to the quotient so obtained, ignoring the remainder, if any. The number so determined, is the quota, which a candidate should secure to be declared elected.

If the total value of the votes credited to any candidate at the first count, is equal to, or greater than the quota sufficient to secure the return of a candidate, he is declared elected by the Returning Officer. If, however, after the first round of counting, no candidate secures the requisite quota, then the counting proceeds on the basis of a process of elimination and exclusion, whereby the candidate credited with the lowest number of votes is excluded and all his ballot papers are distributed among the remaining (continuing) candidates on the basis of the second preferences marked thereon. The ballot papers on which second preference is not marked are treated as exhausted ballot papers and shall not be further counted, even if the third or subsequent preferences are marked thereon. If no candidate secures the requisite quota, then the process of counting will continue on the same basis of elimination and exclusion, till a candidate secures the required quota of votes. In case, even after the exclusion of the candidates receiving the lowest number of votes, no candidate secures the requisite quota and ultimately one candidate remains as the lone continuing candidate, he is declared elected even if he has failed to secure the quota sufficient to secure the return of a candidate.

At an election where there are only two contesting candidates, the result of election will be known after the first round of counting itself. The candidate who has secured

more number of votes than the other candidate shall be declared elected, as he has obviously secured the quota, i.e. 50% of valid votes cast plus one.

27. Q. Where and when is the counting of votes in a Vice-Presidential election held?

A. As the poll for Vice-Presidential election is taken only at one place at the Parliament Houses in New Delhi, the counting of votes is normally taken up on the day of poll itself in the same room in which the poll is taken.

28. Q. When is the security deposit of a candidate in a Vice-Presidential Election forfeited?

A. The Security deposit shall be forfeited if the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the number of votes necessary to secure return of a candidate at such election. In other cases, the deposit will be returned to the candidate.

29. Q. Can the results of the election to the Office of Vice-President be challenged? If so, what is the proper procedure for doing so?

A. Yes. An election to the Office of the Vice-President can be called in question by means of an election petition presented to the Supreme Court. Such election petition should be presented by a candidate or ten or more electors joined together, and may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under Section 12 (of the Presidential and Vice-Presidential Elections Act, 1952), but not later than 30 days from the date of such publication. The grounds on which an election may be challenged are specified in sub-section (1) of section 18 and section 19 of the Presidential and Vice-Presidential Elections Act, 1952.

.....