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Article 75(1A): The 15% Cap on the Council of Ministers

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Article 75(1A): The 15% Cap on the Council of Ministers

Article 75(1A) says the Council of Ministers, including the Prime Minister, cannot exceed 15 per cent of the Lok Sabha. The 91st Amendment added it in 2003. This lesson covers the rule, the State version, the defection bar, the ranks the text leaves out and the UPSC question.

Must know: the 15 per cent cap

1 What does Article 75(1A) say? Before 2004, the Constitution put no number on the Union Council of Ministers. Clause (1A) now does.

What is the rule?

- The **total number of Ministers, including the Prime Minister,** shall not exceed **15 per cent** of the House of the People.
- The House of the People is the Lok Sabha.
- The cap counts every Minister. It is not limited to the Cabinet.

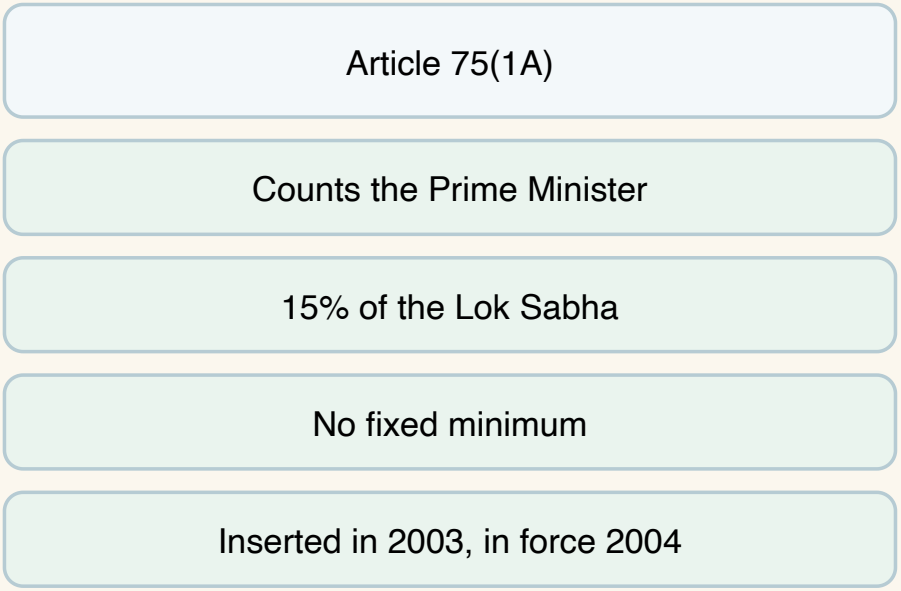


Ministers after the swearing-in ceremony, Rashtrapati Bhavan, New Delhi, 30 May 2019. Photo: President's Secretariat, GODL-India, via Wikimedia Commons. Resized.

When did it begin?

- Clause (1A) was inserted by the **Constitution (Ninety-first Amendment) Act, 2003**, section 2.
- It came into force on **1 January 2004**.
- Article 75 sits in Part V, which deals with the Union executive.

> **Quick check 1.** The 15 per cent cap counts the Prime Minister as one of the Ministers. *(True or False?)* See answer ↓



The cap is a share of the Lok Sabha, not a fixed number. Original explanatory diagram.

Sources: cdnbbsr.s3waas.gov.in

2 Who cannot become a Minister? The same Amendment closed a second door. It stopped defectors from being rewarded with office.

What does Article 75(1B) say?

- A member of either House who belongs to a party can be disqualified under **paragraph 2 of the Tenth Schedule**. That is the defection rule.
- Such a member is also **barred from being appointed a Minister**.
- The bar starts on the date of disqualification.

- It ends when the member's term would expire, or when the member is re-elected, whichever is earlier.

Does the bar cover other posts?

- Article 361B added by the same Amendment covers any **remunerative political post**.
- The same period of disqualification applies.

> **Quick check 2.** A member disqualified under the Tenth Schedule can be appointed a Minister while the disqualification lasts. *(True or False?)* See answer ↓

Sources: cdnbbsr.s3waas.gov.in

Good to know: the State rule

3 What is the State rule? States got their own version. It is in Article 164, not Article 75.

What is the cap?

- Article 164(1A) caps a State Council at **15 per cent** of the Legislative Assembly.
- The Chief Minister is counted in the total.

Is there a minimum?

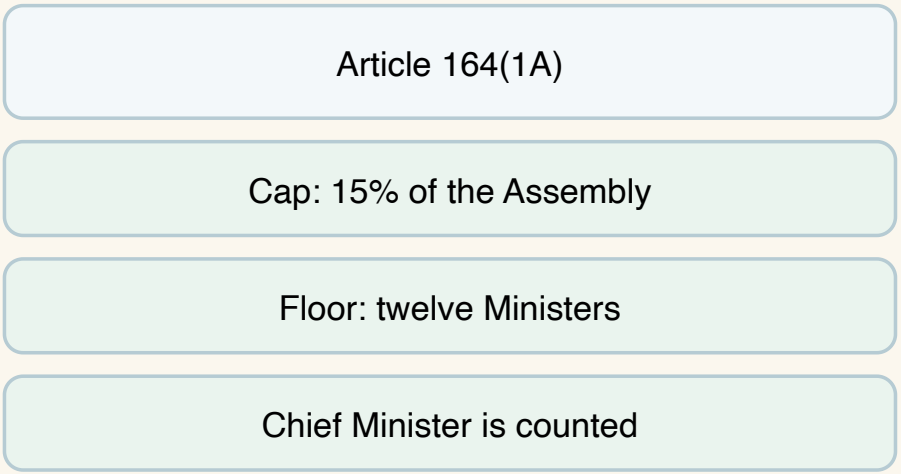
- Yes. A State must have **at least 12 Ministers**, including the Chief Minister.
- Article 75(1A) has no such floor for the Union.

What happened to Councils already above the limit?

- Such a State had to comply within **six months** from a date the President notified.
- The President appointed 7 January 2004 for this.
- Article 164(1B) bars disqualified defectors in the same way as Article 75(1B).

Quick check 3. Article 164(1A) requires a State to have at least twelve Ministers, including the Chief Minister. *(True or False?)*

See answer ↓



The State rule adds a floor that the Union rule lacks. Original explanatory diagram.

Sources: cdnbbsr.s3waas.gov.in

4 What did the Amendment change? The 91st Amendment touched four places in the Constitution. Each section did one job.

Which sections did what?

- **Section 2** inserted clauses (1A) and (1B) in Article 75.
- **Section 3** inserted clauses (1A) and (1B) in Article 164.
- **Section 4** inserted Article 361B on remunerative political posts.
- **Section 5** omitted paragraph 3 of the Tenth Schedule.

What did paragraph 3 do?

- It protected a **split** in a legislature party from disqualification.
- Removing it ended that shield.
- Defection by a split is now no defence.

> **Quick check 4.** The 91st Amendment kept the earlier shield that protected a split in a legislature party. *(True or False?)* See answer ↓

Section 2
Article 75: clauses (1A), (1B)

Section 3
Article 164: clauses (1A), (1B)

Section 4
Article 361B: political posts

Section 5
Tenth Schedule: paragraph 3 omitted

Each section did one job. Original explanatory diagram.

Sources: cdnbbsr.s3waas.gov.in

Great to know: what the text leaves out

5 What is left out? Newspapers speak of Cabinet Ministers and Ministers of State. The Constitution says less.

What do Articles 74 and 75 say?

- Article 74(1) creates a **Council of Ministers** with the Prime Minister at the head.
- Article 75(1) says the President appoints the Prime Minister. The President appoints other Ministers on the Prime Minister's advice.
- Neither article lists ranks such as Cabinet Minister or Minister of State.

Is "Cabinet" in the text at all?

- Article 352(3) mentions the **Union Cabinet**, in the context of an Emergency.
- It defines the Cabinet as the Prime Minister and other Ministers of Cabinet rank.
- It does not set up a ladder of ranks.

Who is answerable to whom?

- Article 75(3) makes the Council **collectively responsible** to the Lok Sabha.

Quick check 5. Article 75 lists the ranks Cabinet Minister, Minister of State with Independent Charge, Minister of State and Deputy Minister. *(True or False?)* See answer ↓

Sources: cdnbbsr.s3waas.gov.in

6 What is the ceiling today? Do the sum once. Then you can answer any number-based question.

What is the working?

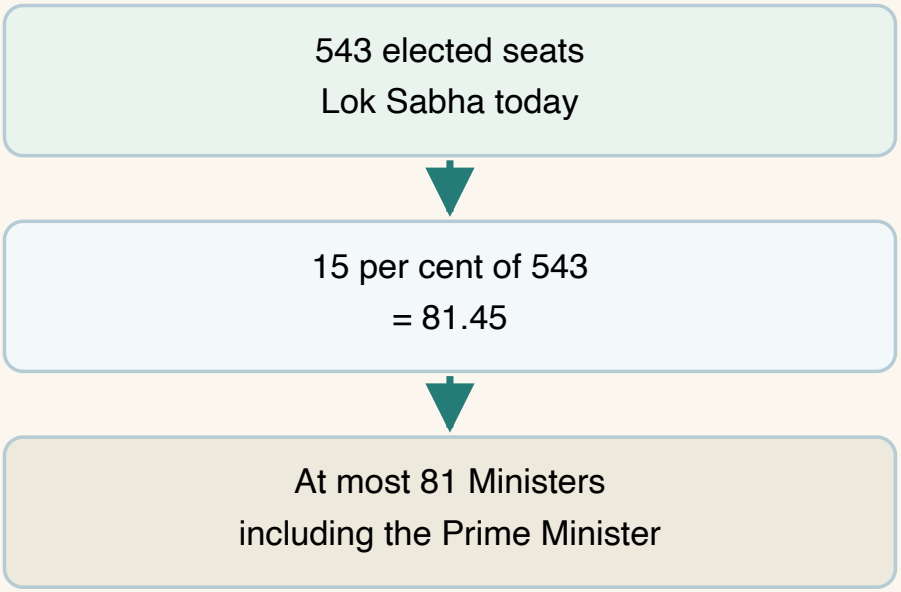


Sansad Bhavan, the old Parliament House, New Delhi. Photo: David Castor, public domain, via Wikimedia Commons. Resized.

- The Lok Sabha has **543 elected seats** today.
- 15 per cent of 543 is 81.45.
- The total cannot exceed that, so the ceiling is **81 Ministers, including the Prime Minister**.

Why does the figure not stay fixed?

- The cap is a share, not a number.
- If Lok Sabha strength changes, the ceiling changes with it.



The total cannot exceed 81.45, so the ceiling is 81. Original explanatory diagram.

Sources: cdnbbsr.s3waas.gov.in

7 How did UPSC test this? The Civil Services Prelims asked about this rule in 2022.

What was the question?

- CSP 2022, Q14, gave two statements.
- Statement 1 said the Constitution classifies Ministers into four ranks. Statement 2 said Ministers cannot exceed 15 per cent of the Lok Sabha.

What does the official key say?

- The official key gives **B**, which is statement 2 only.
- Statement 1 is false because the ranks are convention.
- Statement 2 is true because of Article 75(1A).

Sources: upsc.gov.in; mcqquestion.com

8 Which traps should you avoid? Exam writers swap numbers and levels. Watch these.

What is easy to confuse?

- The cap is **15 per cent**. Options of 10, 20 and 25 are distractors.
- The base is the **Lok Sabha**, not the Rajya Sabha.
- The minimum of twelve is a State rule. The Union has none.

What should you remember?

- The Prime Minister is **inside** the 15 per cent.
- Ranks of Ministers are convention, not Article 75.

Sources: cdnbbsr.s3waas.gov.in

Review the feedback after each answer. The understanding-check score lasts for this page session.

Reset the checks when you want another attempt. This score is separate from the Native Practice score below.

Questions to think through

Why does the cap use a percentage, not a fixed number?

A share moves with the size of the House. Article 75(1A) therefore needs no change if the Lok Sabha grows.

Why does a State need a floor of twelve but the Union does not?

Small Assemblies would otherwise allow very small Councils. The Union Lok Sabha is large, so the text sets no floor.

Why is a disqualified defector barred from ministerial office?

Office is a reward. Barring it removes one benefit of changing sides. The bar lasts only until the term ends or the member is re-elected.

Why can the Council of Ministers still have ranks if the text lists none?

Ranks are practice, built on the Prime Minister’s advice. Only the cap and collective responsibility are fixed in the text.

Practice MCQs

1. The 91st Amendment Act, besides capping the size of the Council of Ministers, also strengthened which aspect of the Anti-Defection Law?

A. It transferred defection decisions from the Speaker to the President

B. It abolished the Anti-Defection Law entirely

C. It extended the Anti-Defection Law to cover the judiciary

D. It removed the disqualification exemption previously available for a split of one-third of a party's members

See answer ↓

2. The 91st Amendment Act capped the maximum size of the Council of Ministers, both at the Centre and in the States, at what proportion of the relevant legislature's strength?

A. 15 percent

B. 10 percent

C. 20 percent

D. 25 percent

See answer ↓

3. Article 75(1A) caps the total number of Ministers, including the Prime Minister, in the Union Council of Ministers at what proportion of the Lok Sabha's strength?

A. 20 percent

B. 10 percent

C. 25 percent

D. 15 percent

See answer ↓

4. What ceiling did the National Commission to Review the Working of the Constitution (NCRWC) recommend, and what did Parliament actually set?

A. NCRWC recommended 15%; Parliament set it at 10%

B. NCRWC recommended 20%; Parliament set it at 15%

C. NCRWC and Parliament both agreed on 12%

D. NCRWC recommended 10%; Parliament set it at 15%

See answer ↓

5. How does Article 75(1A)'s treatment of a minimum Council size differ from Article 164(1A)'s, at the State level?

A. Both set a minimum of twelve Ministers

B. Neither sets a minimum; both are cap-only provisions

C. Article 75(1A) sets no minimum; Article 164(1A) sets a floor of twelve Ministers, including the Chief Minister

D. Article 75(1A) sets a floor of twelve; Article 164(1A) sets none

See answer ↓

6. Besides capping Council of Ministers size, what other reform did the 91st Amendment Act, 2003 bundle in?

A. It introduced the National Judicial Appointments Commission

B. It created the National Commission for Scheduled Castes

C. It strengthened the Anti-Defection Law, barring a disqualified defector from being appointed a Minister for the rest of that term

D. It lowered the voting age from 21 to 18

See answer ↓

Answer Key

1. **D.** The answer is that the Amendment removed the exemption for a split of one-third of a party's members. Section 5 omitted paragraph 3 of the Tenth Schedule, which had given that shield. The Anti-Defection Law was not abolished, and it was not extended to judges. The decision still rests with the presiding officer, not the President. Hook: the split exemption is gone. ↑ Q1
2. **A.** The answer is 15 percent. Article 75(1A) applies it to the Union and Article 164(1A) applies it to the States, each counted on the relevant House. Ten, twenty and twenty-five percent are not in either article. Hook: one Amendment, one 15 per cent rule, two levels. ↑ Q2
3. **D.** The answer is 15 percent. Article 75(1A) says the total number of Ministers, including the Prime Minister, shall not exceed 15 per cent of the Lok Sabha. The 91st Amendment inserted it in 2003. Ten percent is the Commission's old suggestion, and 20 and 25 percent are not in the text. Hook: 15 for the Centre, 15 for the States. ↑ Q3
4. **D.** The answer is that the NCRWC suggested 10 percent and Parliament set 15 percent. The enacted rule is the 15 percent in Article 75(1A). The options that reverse the two figures are wrong because the final cap is the higher one. The 12 percent option is wrong because no such figure appears in the Constitution. Hook: the Commission asked for less, and Parliament gave 15. ↑ Q4
5. **C.** The answer is that Article 75(1A) has no floor, while Article 164(1A) sets a floor of twelve Ministers including the Chief Minister. The first proviso to Article 164(1A) creates that State floor. The option saying both have a floor is wrong because Article 75(1A) has none. The option reversing them is wrong for the same reason. Hook: twelve is a State number only. ↑ Q5
6. **C.** The answer is that the Amendment strengthened the Anti-Defection Law. Article 75(1B) bars a member disqualified under the Tenth Schedule from being a Minister until the term ends or the member is re-elected. The 91st Amendment did not change the voting age or create a Scheduled Castes commission. It also did not create the NJAC. Hook: fewer ministerial posts, and no post for a defector. ↑ Q6

Quick-check answers

1. **True.** Article 75(1A) says 'including the Prime Minister'. ↑ 1

2. **False.** this is false. Article 75(1B) bars such a member until the term ends or the member is re-elected. ↑ 2
3. **True.** The first proviso sets that floor for States. ↑ 3
4. **False.** this is false. Section 5 omitted paragraph 3 of the Tenth Schedule, which was that shield. ↑ 4
5. **False.** this is false. Those ranks come from convention, not Article 75. ↑ 5

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