

Major Constitutional Amendment ACTs

Introduction

- Like any other written Constitution in the world, the Constitution of India also provides for its amendment in order to adjust itself according to the changing conditions and needs.
- Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure. It states that the Parliament may amend the Constitution by way of addition, variation or repeal any provision in accordance with the procedure laid down for the purpose.
- However, the Parliament cannot amend those provisions which form the 'basic structure' of the Constitution. This was ruled by the Supreme Court in the Kesavananda Bharati case (1973).

The First Amendment, 1951

- The First Amendment Act amended articles - 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376.
- It inserted articles *31A and 31B*.
- It inserted *Ninth Schedule* to the Constitution to protect the land reform and other laws present in it from the judicial review.
- First Amendment Act had set the precedent of amending the Constitution to overcome judicial pronouncements to implement the programmes and policies of the Government.
- It placed reasonable restrictions on fundamental rights and added three more grounds of restrictions on freedom of speech such as public order, friendly relations with foreign states and incitement to an offence.
- *Article 19(1)(g)* of the Constitution confers the right of citizens of India to practice any profession or to carry on any occupation, trade or business. The Amendment expressly provided that State trading and nationalization of any trade or business by the state is not being invalid on the ground of the violation of the right to trade or business.
- In response to the verdict on *State of Madras v. Champakam Dorairajan* case(1951), it made provision for special treatment of educationally and socially backward classes by adding the 9th schedule to the Constitution. It prevented the acts listed in the 9th Schedule from being subjected to judicial review.

Fourth Amendment Act, 1955

- Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
- Authorised the state to nationalise any trade.
- Included some more Acts in the Ninth Schedule.

- Extended the scope of Article 31 A (savings of laws).

Seventh Amendment Act , 1956

The 7th Amendment of Indian Constitution was needed to implement the recommendations of the States Re-organisation Commission regarding the reorganization of the states on a linguistic basis. It paved way for doing away with classification of states in A, B, C and D categories and introduced of Union Territories.

- The areas and boundaries pertaining to the States and Union territories which were present in the first schedule of the Constitution was completely revised to reflect the changes brought in by the reorganization scheme.
- 7th CAA amended articles - 1, 3, 49, 80, 81, 82, 131, 153, 158, 168, 170, 171, 216, 217, 220, 222, 224, 230, 231 and 232.
- It inserted articles 258A, 290A, 298, 350A, 350B, 371, 372A and 378A and amended part 8 and schedules 1, 2, 4 and 7.
- Fourth Schedule which lays down the allocation of seats in the Council of States, was completely revised.
- A new article 258A was inserted to provide that the Governor of a State may, with the consent of the Government of India, entrust any State functions to the central Government or its officers.
- Article 81 was revised. It has a provision which made readjustment in the allocation of seats to the states and the divisions of each state into territorial constituencies after each census. It also provided for a maximum of 500 members directly elected from territorial constituencies in the States, and a maximum of 20 members chosen from the Union Territories to the Lok Sabha as Parliament may by law provide.
- The House of the People shall consist of a maximum of 500 members directly elected from territorial constituencies in the States, and a maximum of 20 members chosen from the Union Territories in such manner as Parliament may by law provide.
- A provision making it possible to appoint the same person as Governor for two or more States has been added to article 153.

- Articles 170 and 171 were amended. The maximum strength of the Legislative Council of a State has been raised from one-fourth to one-third of the strength of the Legislative Assembly of that State.
- By amending article 220 relaxes the complete ban on practice by retired judges of the High Courts and made provisions for the retired judge to practice in the Supreme Court and in any High Court other than the one in which he was a permanent judge.
- Article 230 was revised to enable Parliament to extend the jurisdiction of a High Court to, exclude the jurisdiction of a High Court from, any Union territory.
- Article 231 was amended to enable Parliament to establish a common High Court for two or more States.
- Article 240 was revised to make provisions for the peace, progress and good government of the Union territory of:
The Andaman and Nicobar Islands; and
The Laccadive, Minicoy and Amindivi Islands.
- Article 39 was revised to provide for the administration of a Union territory by the President through an administrator to be appointed by him. It also states that the President may appoint the Governor of State as the administrator of an adjoining Union territory. In such a case the Governor appointed shall exercise his functions independently of his Council of Ministers.
- A new article 350A states that every State to provide facilities for instruction in mother Tongue at the Primary stage to children belonging to linguistic minority groups and empowers the President to issue directions to any State for securing such facilities.
- A new article 350B inserted provides for appointment for the President to appoint Special Officers whose duty shall to investigate all matters relating to safeguards provided for linguistic minorities under the Constitution and to report to the President upon those matters. These reports shall be laid before each house of Parliament and sent to the Governments of the States concerned.
- Entries relating to Legislative lists to the acquisition and requisition of property. Entry 33 of the Union List and Entry 36 of the State List have been omitted and Entry 42 of the Concurrent List has been replaced by a more comprehensive entry covering the whole subject.

Ninth Amendment Act, 1960

- **Reasons:**

After the Nehru-Non agreement was signed between India and Pakistan to divide the territory of Berubari Union, the Government of West Bengal opposed it. After this Union referred the matter to SC which held that the power of Parliament to diminish the area of a state (under Article 3) does not cover cession of Indian territory to a foreign country. Hence, Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368. Consequently, the 9th Constitutional Amendment Act (1960) was enacted.

- **Amendments:**

Facilitated the cession of the Indian territory of Berubari Union (located in West Bengal) to Pakistan as provided in the Indo-Pakistan Agreement (1958).

Tenth Amendment Act, 1961

- Incorporation of **Dadra, Nagar and Haveli as a Union Territory**, consequent to acquisition from Portugal.
- It amended article 240 of the constitution.

Thirteenth Amendment Act, 1963

- Formation of State of Nagaland, with special protection under Article 371A.
- It amended article 170.

Fifteenth Amendment Act, 1963

- Enabled the High court's to issue writs to any person or authority even outside its territorial jurisdiction if the cause of action arises within its territorial limits.
- Increased the retirement age of high court judges from 60 to 62 years.
- Provided for the appointment of retired judges of the high court's as acting judges of the same court.
- Provided the compensatory allowance to judges who are transferring from one High court to another.
- Enabled the retired judge of the High Court to act as ad-hoc judge of the Supreme Court.
- Provided for the procedure for determining the age of the Supreme Court and High Court judges.

Seventeenth Amendment Act, 1964

- Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
- Included 44 more Acts in the Ninth Schedule

Eighteenth Amendment Act, 1966

- Made it clear that the power of Parliament to form a new state also includes a power to form a new state or union territory by uniting a part of a state or a union territory to another state or union territory.
- It created new states namely, Punjab and Haryana

Nineteenth Amendment Act, 1966

- Abolished the system of Election Tribunals and vested the power to hear election

Twentieth Amendment Act, 1966

- Validated certain appointments of district judges in the UP which were declared void by the Supreme Court.