



CONSTITUTION

Amendments

- ▶ Article 368 in Part XX of the Constitution deals with the powers of the Parliament to amend the Constitution and its procedure.
- ▶ As per the constitution, Parliament can amend the Constitution by way of addition, variation or repeal any provision in accordance with the procedure laid down.
- ▶ The parliament has the power to amend the constitution only without amending the basic structure of the constitution.
- ▶ An amendment bill of the Constitution can be initiated in either House of Parliament.
- ▶ A constitution amendment bill can be introduced both as a government bill or a private member bill.
- ▶ The bill must be passed in each House by a special majority, that is, a majority (that is, more than 50 percent) of the total membership of the House and a majority of two-thirds of the members of the House present and voting.
- ▶ Each House must pass the bill independently. In case of a disagreement between the two Houses, there is no provision for holding a joint sitting of the two Houses for the purpose of deliberation and passage of the bill.
- ▶ If a bill seeks to amend the federal provisions of the Constitution, it must also be ratified by the legislatures of half of the states by a simple majority.
- ▶ The constitution can be amended in three ways:
 1. Amendment by simple majority of the parliament
 2. Amendment by special majority of the parliament
 3. Amendment by special majority of the parliament and the ratification of half of the state legislatures.
- ▶ Provisions that can be amended by simple majority are:
 1. Admission or establishment of new states.
 2. Formation of new states and alteration of areas, boundaries or names of existing states.
 3. Abolition or creation of legislative councils in states.
 4. Second Schedule-emoluments, allowances, privileges and so on of the president, the governors, the Speakers, Judges, etc.
 5. Quorum in Parliament
 6. Salaries and allowances of the members of Parliament
 7. Rules of procedure in Parliament
 8. Privileges of the Parliament, its members and its committees
 9. Use of English language in Parliament
 10. Number of puisne judges in the Supreme Court
 11. Conferment of more jurisdictions on the Supreme Court
 12. Use of official language
- 13. Citizenship-acquisition and termination
- 14. Elections to Parliament and state legislatures
- 15. Delimitation of constituencies
- 16. Union territories
- 17. Fifth Schedule-administration of scheduled areas and scheduled tribes
- 18. Sixth Schedule-administration of tribal areas
- ▶ Provisions that can be amended by Special Majority of Parliament are Fundamental rights, directive principles of state policy and all other provisions which can not be amended by the other two ways
- ▶ The majority of the provisions in the Constitution need to be amended by a special majority of the Parliament, that is, a majority (that is, more than 50 per cent) of the total membership of each House and a majority of two-thirds of the members of each House present and voting.
 - ▶ Provisions that are amended by Special Majority of Parliament and Consent of States:
 1. Election of the President and its manner.
 2. Extent of the executive power of the Union and the states.
 3. Supreme Court and high courts.
 4. Distribution of legislative powers between the Union and the states.
 5. Any of the lists in the Seventh Schedule.
- 6. Representation of states in Parliament.
- 7. Power of Parliament to amend the Constitution and its procedure (Article 368 itself).
- ▶ The validity of amendment on fundamental rights was firstly questioned in the case Sankari Prasad v. Union of India. In this case the court held that the power to amend the constitution includes the power to amend fundamental rights also.
- ▶ In Kesavananda Bharathi v. State of Kerala which is known as 'fundamental rights case' the court held that the constitution can be amended without amending the basic structure and features of the constitution. Fundamental right is a basic structure of the constitution.

Important Amendments

The Constitution (1st Amendment Act, 1951

- ▶ Added 9th Schedule
- ▶ Taking into account the public order, friendly relations with foreign states and incitement to an offence, added three more ground of restrictions on freedom of speech and expression

The Constitution (13th Amendment) Act, 1962

- ▶ Formation of State of Nagaland with special protection under Article 371A

The Constitution (14th Amendment) Act, 1962

- ▶ French establishments of Pondicherry, Karikal, Mahe and Yanam became territories of the Indian Union

The Constitution (15th Amendment) Act, 1963

- ▶ The retirement age of a High Court Judge has been raised from sixty to sixty two.

The Constitution (18th Amendment) Act, 1966

- ▶ Punjab and Haryana states on the basis language came into existence

The Constitution (22nd Amendment) Act, 1969

- ▶ Formation of Meghalaya State

The Constitution (31st Amendment) Act, 1973

- ▶ Increased the elective strength of the Lok Sabha from 525 to 545. Under the Act, the upper limit of representatives of the States goes up from 500 to 525 and that of the Union Territories decreases from 25 to 20.

The Constitution (36th Amendment) Act, 1975

- ▶ Sikkim became the 22nd State of the Indian Union.

The Constitution (42nd Amendment) Act, 1976

- ▶ It was enacted during the period of internal emergency.
- ▶ It was known as the mini constitution
- ▶ It added three new words i.e., socialist, secular and integrity in the Preamble.
- ▶ It added Part IV A i.e., Fundamental Duties by the citizens
- ▶ It expanded the Directive Principles of state policy by adding

the four provisions. These are:

1. To secure opportunities for healthy development of children (Article 39)
2. To promote equal justice and to provide free legal aid to the poor (Article 39 A)
3. To take steps to secure the participation of workers in the management of industries (Article 43 A)
4. To protect and improve the environment and to safeguard forests and wild life (Article 48 A).

The Constitution (44th Amendment) Act, 1978

- ▶ The Right to Property ceases to be a Fundamental Right and becomes only a legal right

The Constitution (53rd Amendment) Act, 1986

- ▶ Confers Statehood on Mizoram

The Constitution (55th Amendment) Act, 1986

- ▶ Granted Statehood to Arunachal Pradesh which consequently became the 24th State of the Indian Union

The Constitution (56th Amendment) Act, 1987

- ▶ It confers Statehood on Goa and forms a new Union Territory of Daman and Diu.

The Constitution (61st Amendment) Act, 1989

- ▶ It lowered the voting age from 21 to 18.

The Constitution (69th Amendment) Act, 1991

- ▶ Delhi made National Capital Region.

The Constitution (86th Amendment) Act, 2002

- ▶ Provides Right to Education until the age of fourteen and early childhood care until the age of six.

The Constitution (99th Amendment) Act, 2014

- ▶ The amendment provides for the formation of a National Judicial Appointments Commission.

The Constitution (101st Amendment) Act, 2016

- ▶ Goods and Services Tax