

CONSTITUTION
AMENDMENT ACTS,
I-VII
(Synopsis)



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LOK SABHA SECRETARIAT
NEW DELHI

May, 1957

PREFACE

This pamphlet contains synopses of all the Constitution Amendment Acts passed by the First Parliament and assented to by the President.

Each synopsis commences with a short account of the *raison d'etre* of the Amendment which is based on the Statement of Objects and Reasons appended to the Bill. Dates of the reference of a Bill to a Committee, if any, debates in the Houses and Presidential assent are also indicated in the footnotes.

NEW DELHI;
May, 1957.

M. N. KAUL,
Secretary.

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THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951

To amend the Constitution of India

Objects and Reasons

During the first fifteen months of the working of the Constitution, certain difficulties had been brought to light by judicial decisions and pronouncements specially in regard to fundamental rights. Thus, the citizen's right to freedom of speech and expression under Article 19 (1) (a) had been held by some Courts to be so comprehensive as not to render a person culpable even if he advocated murder and other crimes of violence. Again, although the citizen's right, under Article 19(1) (g), to practise any profession or to carry on any occupation, trade or business was subject to "reasonable restrictions" which the laws of the State might impose "in the interests of the general public", and although these words were comprehensive enough to cover any scheme of nationalization which the State might undertake, it was considered desirable to place the matter beyond doubt by a clarificatory addition to Article 19(6). Article 31 had also given rise to unanticipated difficulties for, notwithstanding the provisions of clauses (4) and (6) of Article 31, the implementation of important measures of agrarian reform passed by the State Legislatures had been held up due to dilatory litigation.

The main objects of the Bill were, accordingly, to amend Article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The Bill also sought to amplify Article 15(3) so as to ensure that any special provisions that the State might make for the educational, economic or social advancement of any backward class of citizens might not be challenged on the ground of being discriminatory. Certain amendments in respect of the Articles dealing with the convening and proroguing of the sessions of Parliament had also been found necessary and were incorporated in the Bill, as also a few minor amendments in respect of Articles 341, 342, 372 and 376.

Important Provisions

A new clause (4) has been added to Article 15 enabling the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes (Section 2)

The Act effects the following changes in clause (2) of Article 19 which relates to the grounds of restriction on the freedom of speech.

- (i) Three new grounds of restriction have been introduced. viz., (1) Friendly relations with foreign States; (2) Public Order; (3) Incitement to an offence.

*Bill No. 48 of 1951; Introduced, Parliament (Provisional): 12-5-51; Referred to Select Committee; Debated : May 12, 17, 18, 23, 25, 29, 30, 31 and June 1 and 2, 1951; President's assent : June 18, 1951.

- (ii) The ground "tends to overthrow the State" has been deleted.
- (iii) The words "any matter which offends against or undermines the security of the State" have been substituted by the words "in the interests of the security of the State".
- (iv) The words "libel, slander" have been dropped retaining only the generic term "defamation".
- (v) The expression "reasonable restrictions" has been inserted and governs all the above grounds.
- (vi) All the above changes have been given retrospective effect. [Section 3(a)]

In clause (6) of Article 19, a new ground of restriction upon the freedom of trade, profession etc., has been introduced, viz., the carrying on by the State of any trade, business or service, whether to the exclusion, complete or partial, of citizens or otherwise. [Section 3 (b)]

Section 4 of the Act inserts a new Article 31A which excepts laws providing for acquisition of any 'estate' or any rights therein, from the operation of any of the provisions of Part III of the Constitution containing the Fundamental Rights. The insertion of Article 31A has been made retrospective. But, a law made by a State Legislature, in order to get the protection of the new Article, must have had received the assent of the President.

Section 5 inserts a new Article 31B which saves certain State Acts specified in a new Schedule, viz., the Ninth Schedule, notwithstanding any judicial decisions to the contrary.

The re-enacted Article 85 requires that the President shall summon each House of Parliament to meet within six months of the last sitting in one session. (Section 6)

Under Article 87, as amended, the President must address both Houses of Parliament at the commencement of the first session after a general election as well as each year and not at the commencement of "every session" as under the original Article. (Section 7)

Similar changes have also been effected in the corresponding provisions for the State Legislatures, viz., Articles 174 and 176. (Sections 8, 9)

THE CONSTITUTION (SECOND AMENDMENT) ACT, 1952*

Further to amend the Constitution of India

Objects and Reasons

The original Article 81(1) (a) prescribed an absolute limit of 500 elected members in the House of the People. Article 81(1) (b) provided that the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each constituency shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population. At first, seats were allotted in the House of the People to Part A and Part B States on the basis of one member for every 7·2 lakhs of the estimated population giving a total of 470 members to these States. The 1951 census figures were, however, higher in all cases, and in view of the overall limit of 500 members prescribed in Article 81(1) (a), it was not possible to increase appreciably the total number of seats allotted to these States. It was accordingly necessary to reduce the representation from one member for every 7·2 lakhs to one member for every 7·5 lakhs of population. This figure of 7·5 lakhs was the maximum permissible under Article 81(1) (b) as it stood; but even so, if the average population of a Parliamentary constituency in any State was to be 750,000 it was obvious that the population of some constituencies would exceed that figure. It was, therefore, deemed necessary that Article 81(1) (b) should be amended relaxing the limits prescribed therein so as to avoid a constitutional irregularity in delimiting the constituencies for the purpose of readjustment of representation in the House of the People as required under Article 81(3) of the Constitution. The Bill was designed to achieve this end.

Important Provision

The upper population limit for a parliamentary constituency has been removed by omitting the words "not less than one member for every 750,000 of the population" from Article 81(1) (b).

*Bill No. 54 of 1952; Introduced, Lok Sabha : 18-6-1952; Referred to Select Committee; Debated, Lok Sabha : June 18, July 8 & 9, November 11 & 18, December 9, 10 & 15, 1952; Rajya Sabha : December 15 & 19, 1952; President's Assent : May 1, 1953.

THE CONSTITUTION (THIRD AMENDMENT) ACT, 1955*

Further to amend the Constitution of India

Objects and Reasons

Entry 33 of the Concurrent List enabled Parliament to legislate in respect of products of industries declared to be under Union control. In addition, Parliament was empowered by Article 369, for a period of five years, to legislate in respect of certain specified essential commodities. It was not considered advisable that after Article 369 lapsed on 25th January, 1955, the Centre should be divested of all legal powers to control the production, supply and distribution of some of these essential commodities. The Bill sought to amplify Entry 33 of the Concurrent List accordingly.

Important Provisions

Entry 33 of the Concurrent List has been re-enacted to include four classes of essential commodities *viz.*, (1) foodstuffs, including edible oilseeds and oils; (2) cattle fodder, including oil cakes and other concentrates; (a) raw cotton, whether ginned or unginned, and cotton seed; and (4) raw jute. In addition, imported goods of the same kind as the products of centralized industries have also been brought within the purview of that Entry.

*Bill No. 40 of 1954; Introduced, Lok Sabha : 6-9-1954; Referred to Joint Committee; Debated, Lok Sabha : September 6, 10, 11, 13, 20, 22 and 23, 1954; Rajya Sabha : September 13, 15, 16, 24, 27 and 28, 1954; President's assent: February 22, 1955.

THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955*

Further to amend the Constitution

Objects and Reasons

Some decisions of the Supreme Court had given a very wide meaning to clauses (1) and (2) of Article 31. Despite the difference in the wording of the two clauses, they were regarded as dealing with the same subject. According to these decisions, even where deprivation of property was caused by a purely regulatory provision of law and was not accompanied by an acquisition or taking possession of that or any other property right by the State, the law, in order to be valid, had to provide for compensation under clause (2) of the Article. It was considered necessary, therefore, to re-state more precisely the State's power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State resulted in "deprivation of property".

The scope of Article 31A also needed to be extended to cover certain categories of essential welfare legislation.

Finally, the judgment of the Supreme Court in *Saghir Ahmed v. The State of U.P.*** had raised the question whether an Act, providing for a State monopoly in a particular trade or business conflicted with the freedom of trade and commerce guaranteed by Article 301, but had left the question undecided. The judgment had given rise to the impression that notwithstanding the clear authority of Parliament or of a State Legislature to introduce State monopoly in a particular sphere of trade or commerce [*vide* clause (6) of Article 19 as amended by the Constitution (First Amendment) Act], the law might have to be justified before the Courts as being "in the public interest" under Article 301 or as amounting to a "reasonable restriction" under Article 304(b). It was felt necessary that Article 305 should be amended to make this clear.

The Bill accordingly, sought, in the main, to amend Articles 31, 31A and 305 and, as a corollary to the amendment of Article 31A to augment the Ninth Schedule by the inclusion of some more Acts.

Important Provisions

Clause (2) of Article 31 has been re-enacted. The amendment in the first part of this is somewhat verbal. The generic word 'property' has been retained while the words connoting species of property have been dispensed with. The words "taken possession of or acquired" have been replaced by the words "compulsorily acquired or requisitioned" and so have the words "under any law authorising the taking

*Bill No. 64 of 1954; Introduced, Lok Sabha : 20-12-1954; Referred to Joint Committee : Debated; Lok Sabha : December 20, 1954, March 14, 15, 31 and April 11 and 12, 1955; Rajya Sabha : March 16, 17, 19 and April 19, 20, 1955; President's assent : April 27, 1955.

** (1954) S. C. A. 1218.

of such possession or such requisition" been substituted by the words "save by authority of a law". These changes have been made to distinguish the scope of clause (2) from clause (1). Further, the amended clause makes it clear that no property can be compulsorily acquired or requisitioned by the State save for a "public purpose". Finally, the question of "adequacy" of compensation is made non-justiciable. (Section 2)

A new clause (2A) has been inserted in Article 31. It clearly lays down that the obligation to pay compensation under clause (2) will no longer arise unless either the ownership or the right to possession of the individual is transferred to the State or a corporation owned or controlled by the State. (Section 2)

Clause (1) of Article 31A has been replaced by a new clause and the amendment has been given retrospective effect. As a result of the amendment, in addition to laws relating to the abolition of zamindari, some more categories of welfare legislation have been taken out of the purview of Articles 14, 19 and 31, viz., laws providing for:

- (1) taking over the management of any property by the State for a limited period;
- (2) amalgamation of two or more corporations;
- (3) extinguishment or modification of rights of persons interested in corporations; and
- (4) extinguishment or modification of rights accruing under any agreement, lease or licence relating to minerals.

The definition of "estate" in clause (2) of Article 31A has been enlarged in order to include not only the interests of "intermediaries" strictly so called but also of "*raiyats and under raiyats*". (Section 3)

Article 305 has been amended to make existing as well as future laws, providing for monopoly trading by the State, immune from attack on the ground of contravention of Articles 301 and 303. (Section 4)

Seven new enactments have been added in the Ninth Schedule. The effect will be their complete retrospective validation under Article 31B. (Section 5)

THE CONSTITUTION (FIFTH AMENDMENT) ACT, 1955*

Further to amend the Constitution of India.

Objects and Reasons.

Under the proviso to Article 3 of the Constitution, as it stood before amendment, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State could be introduced in Parliament, unless the views of the State Legislatures concerned with respect to the provisions of the Bill had been ascertained by the President. It was considered desirable that when a reference was made to the State Legislatures for the said purpose, the President should be able to prescribe the period within which the States should convey their views, and it should be open to the President to extend such period whenever he considered it necessary. It was also considered desirable to provide that the Bill would not be introduced until after the expiry of such period. The Bill sought to amend the proviso to Article 3 of the Constitution accordingly.

Important Provisions

The re-enacted proviso to Article 3 enables the President (1) to prescribe the period within which the State concerned should convey its views with respect to the Bill (for the purpose of forming new States etc.) referred to it, and (2) to extend such period, if necessary. The amendment lays down that no such Bill can be introduced in Parliament until after the expiry of the prescribed or extended period.

*Bill No. 73 of 1955; Introduced, Lok Sabha: 9-12-1955; Debated, Lok Sabha: December 12 and 13, 1955; Rajya Sabha : December 15, 1955; President's assent : December 24, 1955.

THE CONSTITUTION (SIXTH AMENDMENT) ACT, 1956^a

Further to amend the Constitution of India

Objects and Reasons

High judicial authorities had found the interpretation of the original Article 286 a difficult task and had expressed divergent views as to the scope and effect, in particular, of the explanation in clause (1) and of clause (2). The majority view of the Supreme Court in *the State of Bombay v. the United Motors (India) Ltd.*** was that sub-clause (a) and the explanation in clause (1) prohibited the taxation of a sale involving inter-State elements by all States except the State in which the goods were delivered for the purpose of consumption therein, and furthermore, that clause (2) did not affect the power of that State to tax the inter-State sale even though Parliament had not made a law removing the ban imposed by that clause. This resulted in dealers resident in one State being subjected to the sales tax jurisdiction and procedure of several other States with which they had dealings in the normal course of their business. Two-and-a-half years later, the second part of this decision was reversed by the Supreme Court in *the Bengal Immunity Company Ltd., v. the State of Bihar**** but here too the Court was not unanimous.

Further, in pursuance of clause (3) of the Article, Parliament passed an Act in 1952 declaring a number of goods to be essential to the life of the community. Since this declaration could not affect pre-existing State laws imposing sales tax on these goods, the result was a wide disparity from State to States, not only in the range of exempted goods, but also in the rates applicable to them.

The Taxation Enquiry Commission, after examining the problem with great care and thoroughness made certain recommendations which were generally accepted by all the State Governments.

The Bill sought to give effect to the recommendations of the Commission as regards the amendment of the constitutional provisions relating to sales tax.

Important Provisions

In the Union List a new entry 92A has been added which places taxes on inter-State sales and purchases within the exclusive legislative and executive power of the Union and makes Entry 54 of the State List "subject to the provisions" of this new entry. (Section 2)

Section 3(a) of the Act adds taxes on inter-State sales and purchases to the list given in clause (1) of Article 269 by inserting a new sub-clause (1)(g) in that Article. Thus, although these taxes will be

^a Bill No. 35 of 1956; Introduced, Lok Sabha : 3-5-56; Referred to Select Committee; Debated, Lok Sabha : May 29, 1956; Rajya Sabha : May, 31, 1956; President's assent : September, 11, 1956.

** (1953) S. C. R. 1069.

*** (1955) S. C. A. 1140.

levied and collected in accordance with an Act of Parliament, they will not form part of the Consolidated Fund of India, but will accrue to the States themselves in accordance with such principles of distribution as may be formulated by Parliament by law.

Section 3(b) inserts a new clause (3) in Article 269. The new clause expressly empowers Parliament to formulate by law principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.

The Explanation from clause (1) of Article 286 has been omitted and clause (2) of the Article has been re-enacted to empower Parliament to formulate principles for determining when a sale or purchase of goods takes place (a) outside a State, or (b) in the course of import or (c) in the course of export. Further, under the revised clause (3) of Article 286 Parliament will have the power to declare by law the goods which are of special importance to inter-State trade or commerce and also to specify the restrictions and conditions to which any State law (whether made before or after the Parliamentary law) will be subject in regard to the system of levy, rates and other incidents of the tax on the sale or purchase of those goods. (Section 4)

THE CONSTITUTION (SEVENTH AMENDMENT) ACT, 1956*

Further to amend the Constitution of India

Objects and Reasons

It was considered necessary to make numerous amendments in the Constitution in order to implement the scheme of States Reorganisation. The Bill sought to make these amendments and also some other amendments to certain provisions of the Constitution relating to High Courts and High Courts Judges, the executive power of the Union and the States, and a few entries in the legislative lists.

Important Provisions

The Act came into force on November 1, 1956 (Section 1).

The amended Article 1, abolishes the three categories of States (Part A, Part B and Part C States) and classifies certain areas as Union Territories. The areas and boundaries of the States and the Union Territories are laid down in the First Schedule which has been completely revised to reflect the alterations effected by the reorganisation scheme. (Section 2).

Certain formal and consequential amendments have been made in Article 80 while the Fourth Schedule, which lays down the allocation of seats in the Council of States, has been completely revised. (Section 3)

Articles 81 and 82 have been re-enacted. The revised Article 81 provides that 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. The provision in the original Article 81(b) that "the States shall be divided, grouped or formed into territorial constituencies" has been dropped. Provision is made for readjustment in the allocation of seats to the States and the division of each State into territorial constituencies after each census. (Section 4)

A proviso has been added to Article 153 making it possible that the same person may be appointed as Governor for two or more States. (Section 6)

Article 168(1) (a) has been amended to provide that the State of Madhya Pradesh shall have a bicameral legislature, as from such date as the President may by public notification appoint. Article 170, which relates to the composition of State Legislative Assemblies, has been amended to bring it into line with Articles 81 and 82 as revised by this Act. The maximum strength of the Legislative Council of a

*Bill No. 29 of 1956; Introduced, Lok Sabha : 18-4-56; Referred to Joint Committee : Debated, Lok Sabha : July 16, September 4, 5 and 6, 1956; Rajya Sabha : July 30, September 10 and 11, 1956; President's assent : October 14, 1956.

State has been raised from one-fourth to one-third of the strength of the Legislative Assembly of that State by amending Article 171. (Sections 8, 9, 10)

The Act relaxes the complete ban on practice by retired judges of the High Courts by amending Article 220. A retired judge can henceforth practise in the Supreme Court and in any High Court other than the one in which he was a permanent judge. (Section 13)

Section 15 amends Article 224 so as to enable the President to appoint additional judges to clear arrears and acting judges in temporary vacancies.

Article 230 has been revised to enable Parliament to extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union Territory. By amending Article 231 Parliament has been empowered to establish a common High Court for two or more States. (Section 16)

The original Article 239 has been re-enacted to provide for the administration of a Union territory by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him. This would, however, be subject to any law made by Parliament. The President may also appoint the Governor of a State as the administrator of an adjoining Union Territory; where a Governor is so appointed, he shall exercise his function as such administrator independently of his Council of Ministers. Article 240 has also been re-enacted to empower the President to make regulations for the peace, progress and good government of the Union Territory of (a) the Andaman and Nicobar Islands; and (b) the Laccadive, Minicoy and Amindivi Islands. Any regulation so made may repeal or amend any Act made by Parliament or any existing law applicable to the Union Territory for the time being. (Section 17)

The Act inserts a new Article 258A which provides 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. (Section 18)

Article 298 has been substituted by a new Article which makes it clear that the Union Government and the State Governments are competent to carry on any trade or business and to acquire, hold and dispose of property and make contracts for any purpose, whether or not it is a matter within the legislative competence of the Union, or, as the case may be, of the State. However, such extended executive power of the Union and of the States will be subject, in the former case, to Legislation by the State, and in the latter case, to legislation by Parliament. (Section 20)

The new Article 350A enjoins 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 the provision of such facilities. Another new Article 350B provides for appointment by the President of Special Officers whose duty it shall be 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. (Section 21)

Article 371 has been replaced by another Article enabling the President (1) to constitute regional committees of the State Legislative Assemblies of Andhra and Punjab and secure their proper functioning by directing suitable modifications to be made in the rules of business of Government and in the rules of procedure of the Assembly and by providing for any special responsibility of the Governor. With respect to the State of Bombay too the President is empowered to provide for any special responsibility of the Governor for the establishment of separate development boards in different regions of the State, the equitable allocation of funds for developmental expenditure over the different regions and an equitable arrangement providing adequate facilities in technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of the different areas. (Section 22)

Of the three entries in the legislative lists relating to the acquisition and requisitioning of property Entry 33 of the Union List and Entry 36 of the State List have been omitted while Entry 42 of the Concurrent List has been replaced by a more comprehensive entry covering the whole subject. (Section 26)

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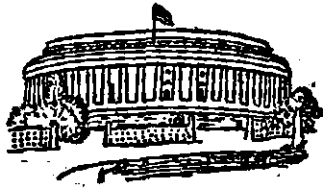
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