

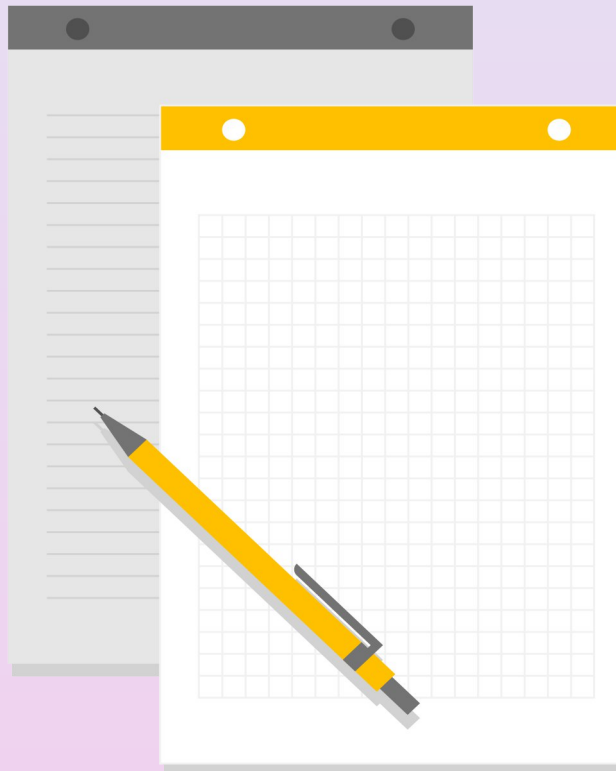
PYQ Speaks

by



Study OAS

For OPSC OAS Prelims



Compiled by

Sandip Acharjya

Amendment of Constitution

Which constitutional amendment provided for the setting up of Administrative Tribunals in India? [OPSC OCS 2015]

- (a) 24th Amendment
- (b) 42nd Amendment
- (c) 44th Amendment
- (d) 59th Amendment

Sol. (b): The 42nd Amendment of 1976 enabled the creation of Administrative Tribunals (Article 323A) for resolving public service disputes efficiently.

"Right to Education" has been placed in Indian Constitution under: [OPSC OCS 2016]

- (a) 86th Amendment Act
- (b) 81st Amendment Act
- (c) 73rd Amendment Act
- (d) 91st Amendment Act

Sol. (a): The 86th Amendment (2002) introduced Article 21A, making education a Fundamental Right for children aged 6–14 years.

73rd Amendment does not apply to the states of: [OPSC OCS 2017]

- (1) Nagaland
- (2) Mizoram
- (3) Jammu and Kashmir
- (4) Meghalaya

Select the correct answer using the codes given below:

- (a) 1 and 2
- (b) 1, 2 and 4
- (c) 1, 2, 3 and 4
- (d) 2 and 3

Sol. (b): The 73rd Amendment, which introduced Panchayati Raj, does not apply to Nagaland, Mizoram, and Meghalaya due to their special provisions under Article 243M.

Which of the following Articles were repealed from the Indian Constitution by the Constitution (26th Amendment) Act, 1971? [OPSC OCS 2018]

- (a) Art. 291 and Art. 362
- (b) Art. 283 and Art. 283-A
- (c) Art. 251 and Art. 256
- (d) Art. 301 and Art. 304

Sol. (a): The 26th Amendment Act (1971) abolished the privileges of princely states by repealing Articles 291 and 362, ensuring equality among citizens.

The official name of GST Bill is: [OPSC OCS 2019]

- (a) The Constitution (121st Amendment) Bill, 2014
- (b) The Constitution (121st Amendment) Bill, 2015
- (c) The Constitution (122nd Amendment) Bill, 2014
- (d) The Constitution (122nd Amendment) Bill, 2015

Sol. (c): The Goods and Services Tax (GST) was introduced as the Constitution (122nd Amendment) Bill, 2014. It became the 101st Constitutional Amendment Act after its passage.

What we learnt?

We need to revise Amendment procedure alongwith all important amendments of past.

AMENDMENT OF THE CONSTITUTION

Constitutional Provision

- Amendment procedure is given in **Article 368**
- Located in **Part XX**

WHY AMENDMENT IS NEEDED?

- Constitution is neither too rigid nor too flexible
- To adapt to:
 - Social change
 - Economic development
 - Political needs
- Ensures balance between stability and flexibility

TYPES OF AMENDMENTS

1. Simple Majority (Outside Article 368)

- Not considered a constitutional amendment technically
- Passed like an ordinary law

Examples:

- Formation of new states (Art. 2, 3)
- Citizenship provisions
- Delimitation of constituencies
- Creation or abolition of Legislative Councils

2. Special Majority (Under Article 368)

- Most common type

Requirement:

- Majority of total membership of each House AND
- Two-thirds of members present and voting

Used for:

- Fundamental Rights
- Directive Principles of State Policy
- Most constitutional provisions

3. Special Majority + State Ratification

- Applies to federal provisions

Requirement:

- Special majority in Parliament AND
- Approval by one-half of State Legislatures

Used for:

- Election of President
- Distribution of powers (Seventh Schedule)
- Supreme Court and High Courts
- Representation of states in Parliament

PROCEDURE OF AMENDMENT

- Bill introduced in either House of Parliament
 - No prior permission of President required
- Must be passed by required majority
 - (Simple / Special / Special + State ratification)
- If required, sent to States for ratification
- Sent to President for assent
 - President must give assent (no veto power)

IMPORTANT FEATURES

- No provision for joint sitting
- Amendment bill cannot be introduced in State Legislature
- Parliament can amend any part of the Constitution
- But subject to Basic Structure Doctrine

IMPORTANT AMENDMENTS

- 1st Amendment (1951) → Ninth Schedule
- 7th Amendment (1956) → Reorganisation of States
- 42nd Amendment (1976) → Mini Constitution
- 44th Amendment (1978) → Safeguards against Emergency misuse
- 73rd Amendment (1992) → Panchayati Raj
- 74th Amendment (1992) → Municipalities
- 86th Amendment (2002) → Right to Education (Article 21A)
- 100th Amendment Act, 2015 → India–Bangladesh Land Boundary Agreement (exchange of enclaves)
- 101st Amendment Act, 2016 → Introduction of GST (Goods and Services Tax)
- 102nd Amendment Act, 2018 → Constitutional status to National Commission for Backward Classes (NCBC)
- 103rd Amendment Act, 2019 → 10% reservation for Economically Weaker Sections (EWS)
- 104th Amendment Act, 2020 → Extension of SC/ST reservation; removal of Anglo-Indian nomination
- 105th Amendment Act, 2021 → Restored states' power to identify OBCs

SUPREME COURT CASES ON CONSTITUTIONAL AMENDMENT

Case	Year	Issue	Judgment	Impact
Shankari Prasad Case (1951)	1951	Can Parliament amend Fundamental Rights?	YES	Amendment under Article 368 is NOT "law" under Article 13
Golaknath Case (1967)	1967	Can FR be amended?	NO	Fundamental Rights are supreme and cannot be amended
Kesavananda Bharati Case (1973)	1973	Scope of amendment power	YES, but limited	Introduced Basic Structure Doctrine
Indira Gandhi Election Case (1975)	1975	Validity of election-related amendment	Partly invalid	Free & fair elections = Basic Structure
Minerva Mills Case (1980)	1980	Validity of 42nd Amendment	Partly struck down	Balance between FR & DPSP + Limited amending power
Waman Rao Case (1981)	1981	Ninth Schedule laws	Conditional validity	Laws after 24 April 1973 subject to judicial review
I.R. Coelho Case (2007)	2007	Ninth Schedule immunity	NOT absolute	Even Ninth Schedule laws subject to Basic Structure

IMPORTANT ARTICLES RELATED

- Article 368 → Amendment procedure
- Article 13 → Laws inconsistent with Fundamental Rights

42nd CONSTITUTIONAL AMENDMENT ACT, 1976

Also called “Mini Constitution”

Background

- Enacted during **Emergency (1975–77)** under Indira Gandhi government
- Aim: Strengthen central power & reduce judicial interference

FEATURES

1. Preamble Changes

- Added:
 - **Socialist**
 - **Secular**
 - **Integrity**

Now reads: Sovereign Socialist Secular Democratic Republic

2. Fundamental Duties Added

- Inserted **Part IVA (Article 51A)**
- Initially **10 duties** (now 11 after 86th Amendment)

3. DPSP Strengthened

- DPSP given **priority over Fundamental Rights** (Art. 31C expanded)

4. Curtailment of Judiciary Power

- Restricted **Judicial Review**
- Introduced provisions like:
 - Art. 32A, 131A, 226A (later removed)

5. Amendment Power Increased

- Made Parliament's amending power **unlimited**
- Declared amendments **non-justiciable**

6. Administrative Tribunals

- Inserted **Article 323A & 323B**
- Led to creation of tribunals

7. Centre-State Relations

- Shifted subjects from State List → Concurrent List:
 - Education
 - Forests
 - Weights & Measures
 - Protection of Wild Animals

8. Tenure Changes

- Extended Lok Sabha & State Assemblies term:
 - From 5 → 6 years (later reversed)

9. Emergency Provisions

- Made declaration of Emergency easier
- Strengthened Centre

44th CONSTITUTIONAL AMENDMENT ACT, 1978

- “Restoration Amendment”

Background

- Passed after Emergency by **Janata Government**
- Aim: Restore democracy & civil liberties

FEATURES

1. Right to Property Removed

- Removed from Fundamental Rights
- Made **Legal Right (Article 300A)**

2. Emergency Safeguards Strengthened

- “Internal disturbance” → replaced with **Armed rebellion**
- President can declare emergency **only on written advice of Cabinet**
- Fundamental Rights (Art. 20 & 21) **cannot be suspended**

3. Restoration of Judiciary Power

- Restored **Judicial Review**
- Removed anti-judiciary provisions of 42nd Amendment

4. Lok Sabha Tenure Restored

- Reduced from 6 → **5 years**

5. Safeguards against misuse

- Special majority required for continuation of Emergency
- Protection of civil liberties