

Amendment Part - 20

Art - 368



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Art 368 of the Constitution gives the impression that Parliament amending powers are absolute and encompass all parts of the document.

But Supreme Court has acted as a brake to legislative enthusiasm

- The idea of amending the Constitution has been borrowed from South Africa.
- Art 368 itself have been amended by parliament through 24th Amendment Oct 1971 & 42nd Amendment Oct 1976.
- Introduce in either house
- Either by a minister or by private member - not minister

Amendment by Art-368

Simple Majority

present and voting.

- (1) Citizenship
- (2) Art-1-4
- (3) Quorum of parliament
- (4) 5 Schedule
- (5) 6 Schedule

Special Majority

- (1) majority of total membership of each house = $543 \div 2 = (272) + 1$
- (2) Majority of $\frac{2}{3}$ of members present and voting.
300 vote
280 favour - Pass

- (i) Fundamental Rights
- (ii) DPSP
- (iii) National Emergency

Special Majority and ratification by the states.

Special Majority +

Ratification of $\frac{1}{2}$ of state legislature

- (i) Election of President
- (ii) Extent of Executive Power via Art-73/162
- (iii) Art dealing with H.C., S.C
- (iv) Seventh Schedule
- (v) Amendment.

Procedure of Amendment

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Can be introduced
either in Lok Sabha
or Rajya Sabha →

Majority 50+ of
total membership

$\frac{2}{3}$ of members present
and voting
is required to pass bill

↓
In case of Tie
→ Presiding officer
casts his/her vote

Presented to
President
(President is bound
to give consent)

24th amendment 1971

↓
must be passed by
both Lok Sabha
and Rajya Sabha
←

The Bill becomes an Amendment
after president assent.

Constitutional Amendments

1951 - 1st Amendment Oct 1951

9th Schedule ← 31-A
31-B
Schedule
Zamindari abolition act

19 (2)	15 (4)
→ Public order	socially econ. backward classes. Reservation
→ Friendly relation with foreign states	
→ Incitement of or offence	

A-B-C-D → 7th Amendment 1956

Linguistic Division
State Re-organisation Commission

States UT's

State reorganisation

Re Berubari Union Case - SC amendment needed to Cede territory

9th Amendment 1960

Constitution (105th Amendment) Act deemed
to be in force from 15th Aug 2021,

Power to identify SEBCs back to state Govts
and UTs

Amended Article - 338B, 342A & 366
to restore state power to make their own OBC
lists. Annulling Supreme Court judgement of
11 May 2021.



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