

THE CONSTITUTION (ONE HUNDRED AND FIVE AMENDMENT) ACT, 2021

India

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Act 105 of 2021

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BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Constitution (One Hundred and Five Amendment) Act, 2021. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of article 338B.

In article 338B of the Constitution, in clause (9), the following proviso shall be inserted, namely:—“Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A.”.

3. Amendment of article 342A.

In article 342A of the Constitution,—(a) in clause (1), for the words “the socially and educationally backward classes which shall for the purposes of this Constitution”, the words “the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government” shall be substituted; (b) after clause (2), the following shall be inserted, namely:—‘Explanation.— For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government. (3) Notwithstanding anything contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.’.

4. Amendment of article 366.

In article 366 of the Constitution, for clause (26C), the following clause shall be substituted, namely:—‘(26C) “socially and educationally backward classes” means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be.’.[The Constitution (One Hundred and Five Amendment) Act, 2021, restored state governments’ authority to recognize economically and socially disadvantaged groups (SEBCs). A community for which the State in India may give “special provisions” or equality is classified as SEBCs, which contains the categories generally referred to as Other Backward Classes (OBCs). The Supreme Court ruled that the separate State lists were exempt from the authority and obligations of the National Commission for Backward Classes. State governments’ ability to create the Socially and Educationally Backward Classes (SEBC) list was reinstated by the 105th Amendment of Indian constitution. It said that States are exempt from the National Commission’s requirement for consultation. Consequently, over one-fifth of all OBC communities benefitted from this. It reinstated a Supreme Court literal interpretation that took away the States’ ability to keep a state list of OBCs. States were granted the power to react swiftly to socioeconomic needs that are unique to a state or region. India already had a federal structure, and the Bill that was passed strengthened it much more.Also refer]