

THE CONSTITUTION (TWENTY-FIFTH AMENDMENT) ACT, 1971

India

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Act 25 of 1971

- Published in Gazette of India on 22 July 1971
- Commenced on 20 April 1972
- [This is the version of this document from 22 July 1971.]
- [Note: The original publication document is not available and this content could not be verified.]

Statement of Objects and Reasons appended to the Constitution (Twenty-fifth Amendment) Bill, 1971 which was enacted as the Constitution (Twenty-fifth Amendment) Act, 1971

STATEMENT OF OBJECTS AND REASONS Article 31 of the Constitution as it stands specifically provides that no law providing for the compulsory acquisition or requisitioning of property which either fixes the amount of compensation or specifies the principles on which and the manner in which the compensation is to be determined and given shall be called in question in any court on the ground that the compensation provided by that law is not adequate. In the Bank Nationalization case [1970, 3 S.C.R. 530], the Supreme Court has held that the Constitution guarantees right to compensation, that is, the equivalent in money of the property compulsorily acquired. Thus in effect the adequacy of compensation and the relevancy of the principles laid down by the Legislature for determining the amount of compensation have virtuality become justiciable inasmuch as the Court can go into the question whether the amount paid to the owner of the property is what may be regarded reasonably as compensation for loss of property. In the same case, the Court has also held that a law which seeks to acquire or requisition property for a public purpose should also satisfy the requirements of article 19 (1) (f). The Bill seeks to surmount the difficulties placed in the way of giving effect to the Directive Principles of State Policy by the aforesaid interpretation. The word "compensation" is sought to be omitted from article 31(2) and replaced by the word "amount". It is being clarified that the said amount may be given otherwise than in cash. It is also proposed to provide that article 19(1)(f) shall not apply to any law relating to the acquisition or requisitioning of property for a public purpose.

3. The Bill further seeks to introduce a new article 31C which provides that if any law is passed to give effect to the Directive Principles contained in clauses (b) and (c) of article 39 and contains a declaration to that effect, such law shall not be deemed to be void on the ground that it takes away or abridges any of the rights contained in article 14, 19 or 31 and shall not be questioned on the ground that it does not give effect to those principles. For

this provision to apply in the case of laws made by State Legislatures, it is necessary that the relevant Bill should be reserved for the consideration of the President and receive his assent.

An Act further to amend the Constitution of India. BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follow:-

1. Short title.-

This Act may be called the Constitution (Twenty-fifth Amendment) Act, 1971.

2. Amendment of article 31.-

In article 31 of the Constitution, -(a) for clause (2), the following clause shall be substituted, namely: - "(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash: Provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1) of article 30, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause."; (b) after clause (2A), the following clause shall be inserted, namely: - "(2B) Nothing in sub-clause (f) of clause (1) of article 19 shall affect any such law as is referred to in clause (2).".

3. Insertion of new article 31C.-

After article 31B of the Constitution, the following article shall be inserted, namely:-

31C. Saving of laws giving effect to certain directive principles.-

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy: Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.". [The Constitution (Twenty-Fifth Amendment) Act, 1971, curtailed the fundamental right to property, and permitted the acquisition of private property by the government for public use, on the payment of compensation which would be

determined by the Parliament and not the courts. The amendment also exempted any law giving effect to the article 39(b) and (c) of Directive Principles of State Policy from judicial review, even if it violated the Fundamental Rights. Important Verdict-Rustom Cavasjee Cooper v. Union Of India] The Court also held that a law which seeks to acquire or requisition property for public purposes must satisfy the requirement of Article 19 (1)(f). The 25th Amendment sought to overcome the restrictions imposed on the government by this ruling. Also refer