

THE CONSTITUTION (TWENTY-FOURTH AMENDMENT) ACT, 1971

India

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Act 24 of 1971

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Statement of Objects and Reasons appended to the Constitution (Twenty-fourth Amendment) Bill, 1971 which was enacted as THE CONSTITUTION (Twenty-fourth Amendment) Act, 1971
STATEMENT OF OBJECTS AND REASONSThe Supreme Court in the well-known Golak Nath's case [1967, 2 S.C.R. 762] reversed, by a narrow majority, its own earlier decisions upholding the power of Parliament to amend all parts of the Constitution including Part III relating to fundamental rights. The result of the judgment is that Parliament is considered to have no power to take away or curtail any of the fundamental rights guaranteed by Part III of the Constitution even if it becomes necessary to do so for giving effect to the Directive Principles of State Policy and for the attainment of the objectives set out in the Preamble to the Constitution. It is, therefore, considered necessary to provide expressly that Parliament has power to amend any provision of the Constitution so as to include the provisions of Part III within the scope of the amending power.

2. The Bill seeks to amend article 368 suitably for the purpose and makes it clear that article 368 provides for amendment of the Constitution as well as procedure therefor. The Bill further provides that when a Constitution Amendment Bill passed by both Houses of Parliament is presented to the President for his assent, he should give his assent thereto. The Bill also seeks to amend article 13 of the Constitution to make it inapplicable to any amendment of the Constitution under article 368.

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 follows:-

1. Short title.-

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

2. Amendment of article 13.-

In article 13 of the Constitution, after clause (3), the following clause shall be inserted, namely:--"(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368."

3. Amendment of article 368.-

Article 368 of the Constitution shall be re-numbered as clause (2) thereof, and-(a)for the marginal heading to that article, the following marginal heading shall be substituted, namely:--"Power of Parliament to amend the Constitution and procedure therefor.";(b)before clause (2) as so re-numbered, the following clause shall be inserted, namely:--"(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.";(c)in clause (2) as so re-numbered, for the words "it shall be presented to the President for his assent and upon such assent being given to the Bill", the words "it shall be presented to the President who shall give his assent to the Bill and thereupon" shall be substituted;(d)after clause (2) as so re-numbered, the following clause shall be inserted, namely:--"(3) Nothing in article 13 shall apply to any amendment made under this article.".[The Constitution (Twenty-Four Amendment) Act, 1971, enables Parliament to dilute Fundamental Rights through Amendments of the Constitution. It also amended Article 368 to provide expressly that Parliament has power to amend any provision of the Constitution. The amendment further made it obligatory for the President to give his assent, when a Constitution Amendment Bill was presented to him. The government has argued that the 24th Amendment will help to implement the Directive Principles of State Policy. However, a large section of constitutional experts would believe that the undisputed authority of Parliament is a threat to the democratic process in the country. In the Indian Constitution, the balance of legislative power is vital, and the power of amendment conferred to parliament to alter such regulations is often considered an important one. Important Verdict- Kesavananda Bharati v. State of Kerala I.C. Golaknath and Ors. vs State of Punjab and Anrs.. However, the Supreme Court has ruled that the 24th Amendment Act is Constitutional. The ruling has several important implications. While it confirms that the 24th Amendment Act is valid, it establishes some significant constituent features like Judicial review and basic features of the Constitution. Also refer]