

Amendment of the Constitution

1. Meaning

Amendment of the Constitution means **adding, changing, or deleting** any provision of the Constitution **through the formal procedure laid out in Article 368**.

The purpose is to ensure the Constitution remains a **living, adaptable document** while preserving its core principles.

2. Where Is It Mentioned?

- **Article 368** in **Part XX** deals with the *procedure and power* of amendment.
- Allows the Constitution to grow with changing political, social, and economic needs.

3. Procedure for Amendment (Article 368)

- **Bill introduced only in Parliament** (either House; not in State Legislatures).
- **Can be introduced by a Minister or Private Member**; no Presidential permission needed.
- Must be passed in **each House separately**, by **Special Majority**:
 - 50% of *total membership*
 - 2/3rd *present and voting*.
- **No joint sitting** if the Houses disagree.
- If federal provisions are involved, → **must be ratified by ½ of States** (Simple Majority).
- Sent to the President → The **President must give assent**; cannot reject or return it.
- After assent, → becomes a **Constitutional Amendment Act**.

4. Types of Amendments

A. By a Simple Majority of Parliament

(Not considered amendments under Art. 368.)

Used for everyday provisions like:

- Creation or alteration of states
- Abolition/creation of Legislative Councils
- Delimitation of constituencies
- Salaries of MPs, etc.

B. By Special Majority of Parliament

(Most amendments fall here.)

Covers:

- **Fundamental Rights**
- **DPSPs**
- Most general constitutional provisions

C. Special Majority + Ratification by ½ States

Required for **federal** provisions such as:

- Election of the President
- Powers of Union & States
- Supreme Court & High Courts
- Representation of States in Parliament
- 7th Schedule entries

Note:

- Consent of *all* states is not required.
- No time limit for states to ratify.

5. Basic Structure Doctrine (1973)

The Supreme Court in the **Kesavananda Bharati case (1973)** held that Parliament's amending power **cannot alter or destroy the Basic Structure** of the Constitution.

Examples:

- Supremacy of the Constitution
- Judicial Review
- Rule of Law
- Federalism
- Secularism
- Parliamentary democracy
- Free and fair elections

Acts as a **constitutional safety valve**.

6. Significance of Amendments

- **Keeps the Constitution relevant** to new challenges.
- Helps **recognize new rights** (Ex: Right to privacy).
- Enables **social reforms** (Ex: Ending discriminatory practices).
- Addresses **governance needs** of a changing society.

- Strengthens **democracy, decentralization, and inclusion**.

7. Criticism of Amendment Procedure

- No **separate constitutional convention**; the same Parliament amends it.
- The process resembles ordinary law-making except for a special majority.
- States cannot initiate amendments.
- Many provisions are amendable by Parliament alone.
- No joint sitting → risk of deadlock.
- Vague drafting → invites litigation.

8. Important Constitutional Amendments

Amendment	Key Provision
1st (1951)	Added the 9th Schedule to protect laws from judicial review.
42nd (1976)	Added Socialist, Secular, Integrity to the Preamble; Added Fundamental Duties .
44th (1978)	Replaced “internal disturbance” with armed rebellion ; Removed Right to Property from FRs.
61st (1988)	Lowered voting age from 21 to 18 .
73rd (1992)	Gave constitutional status to Panchayats .
74th (1992)	Gave constitutional backing to Urban Local Bodies .
86th (2002)	Made Free & Compulsory Education (6–14 yrs) a Fundamental Right.
97th (2011)	Constitutional status to Cooperative Societies .
101st (2016)	Introduced GST .
102nd (2018)	Constitutional status to NCBC .
103rd (2019)	10% EWS reservation .
104th (2020)	Extended SC/ST reservation in legislatures till 2030.
105th (2021)	Restored state power to identify SEBCs .
106th (2023)	1/3rd reservation for women in Lok Sabha & State Assemblies.