

Constitutional Amendment | Important PYQ Topics

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INTRODUCTION

- The process of making changes to the **nation's fundamental law or supreme law**.
- Borrowed from the constitution of **South Africa**.
- Procedure is laid down in **Part XX (Article 368) of the Constitution of India**.
 - **Article 368:** *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.*
- **Ensures the sanctity** of the Constitution; **check on arbitrary power of the Parliament**.
- Provides **flexibility and adaptability** to the constitutional framework, making it a **more relevant document of the time**.

TYPES OF AMENDMENT

- **By Simple Majority:**
 - Majority of more than **50% of the members present and voting**.
 - *Admission or establishment or formation of new states and alteration of areas, boundaries or names of existing states, Abolition or creation of legislative councils etc.*
- **By Special Majority:**
 - Supported by a **majority of 2/3rd members present and voting supported by over 50% of the total strength of the House**.
 - *Fundamental Rights, DPSP etc.*
- **Special Majority of Parliament and Consent of States:**
 - Required when **federal structures need to be amended**.
 - Apart from **special majority by both the houses** of the parliament, it requires **consent of half of the state legislature by a simple majority**.
 - There is **no time limit** within which states should give their consent to the bill.
 - *Election of the President, Extent of the executive power of the Union and the states, Supreme Court and high courts.*

PROCEDURE

- Introduction of a bill for the purpose in **either house of the Parliament**.
- Can be introduced either by a **minister or by a private member** and **does not require the permission of the President**.

- **No provision for joint sitting of the houses.**
- The President **must give his assent to the bill.**
- After the President's assent, the bill becomes an act.

JUDGEMENTS

- **Kesavananda Bharati Case 1973:** SC ruled that the parliament cannot amend those provisions which form the **"basic structure"** of the Constitution.
- **Minerva Mills vs. Union of India, 1980:** SC held the **42nd Amendment Act, 1976 unconstitutional.**
 - **Judicial review** was recognized to be a part of the basic structure of the Constitution.

PYQ

Q. Which of the following are matters on which a constitutional amendment is possible only with the ratification of the legislature of not less than one-half of the states?

- 1. Election of the President**
 - 2. Representation of states in the Parliament**
 - 3. Lists in the 7th Schedule**
 - 4. Abolition of the Legislature Council in a State**
- a) 1 2 and 3
b) 1 2 and 4
c) 1 3 and 4
d) 2 3 and 4

Q. Describe the emergence of Basic Structure concept in the Indian Constitution.

Q. How would you differentiate between the passage of a Constitution Amendment Bill and of an Ordinary Legislative Bill.