

# UPSC Civil Services Examination

## Political Science & International Relations (Prelims & Mains)

### Topic: Constitutional Amendment Process

The topic is important for IAS exam under Polity subject. The questions from these two topics have been frequently asked in both UPSC Prelims and Mains examination.

### Constitutional Amendment Process

The procedure for the amendment of the Constitution as laid down in Article 368 is as follows:

- An amendment of the Constitution can be initiated only by the introduction of a bill for the purpose in either House of Parliament (Lok Sabha & Rajya Sabha) and not in the state legislatures.
- The bill can be introduced either by a minister or by a private member and does not require prior permission of the president.
- The bill must be passed in each House by a special majority, that is, a majority (that is, more than 50 per cent) of the total membership of the House and a majority of two-thirds of the members of the House present and voting.
- Each House must pass the bill separately.
- In case of a disagreement between the two Houses, there is no provision for holding a joint sitting of the two Houses for the purpose of deliberation and passage of the bill.
- If the bill seeks to amend the federal provisions of the Constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members of the House present and voting.
- After duly passed by both the Houses of Parliament and ratified by the state legislatures, where necessary, the bill is presented to the president for assent.
- The president must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament
- After the president's assent, the bill becomes an Act (i.e., a constitutional amendment act) and the Constitution stands amended in accordance with the terms of the Act.

### Scope of Amendability in Indian Constitution

The present position is that the Parliament under Article 368 can amend any part of the Constitution including the Fundamental Rights but without affecting the 'basic structure' of the Constitution. However, the Supreme Court is yet to define or clarify as to what constitutes the 'basic structure' of the Constitution.

From the various judgements, the following have emerged as 'basic features' of the Constitution:

1. Supremacy of the Constitution

2. Welfare state (socio-economic justice).
3. Principle of equality
4. Sovereign, democratic and republican nature of the Indian polity.
5. Judicial review
6. Free and fair elections
7. The secular character of the Constitution.
8. Freedom and dignity of the individual
9. Independence of Judiciary
10. Separation of powers between the legislature, the executive and the judiciary.
11. Parliamentary system
12. Limited power of Parliament to amend the Constitution
13. Federal character of the Constitution
14. Rule of law
15. Effective access to justice
16. Unity and integrity of the nation
17. Harmony and balance between Fundamental Rights and Directive Principles
18. Reasonableness