

Bill No. XXX of 2016

THE CONSTITUTION
(ONE HUNDRED AND XX AMENDMENT) BILL, 2016

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (A) This Act may be called the Constitution (ONE HUNDRED AND XX AMENDMENT) Act, 2016.

(B) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. In Article 356 of the Constitution,

(A) The following words shall be added at the beginning of Clause (1): “Subject to Clause (1)(A) of this Article,”

(B) The following clause shall be added as Article 356 clause (1)(A):

“(1)(A) (i). Not less than fourteen calendar days prior to the issuance of any proclamation under clause (1) the President shall issue a notice to the State Government concerned informing the State Government that the President intends to issue a proclamation under clause (1); setting out the grounds on which the President is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution; and identifying the steps that need to be taken by the State Government to redress the situation to the satisfaction of the President;

(ii) The President shall take into due consideration any action taken by the State Government, or communication received from the State Government through the Governor of the State, pursuant to the notice issued by the President under clause (1)(A)(i) before issuance of any proclamation under clause (1) and may also call for a fresh report from the Governor of the State;

(iii) For the purposes of this Article, the situation in which the government of the State cannot be carried on in accordance with the provisions of this Constitution shall **include** the following:

- (a) Loss of support of the majority of members of the State Legislative Assembly for the State Government as proved in a no-confidence motion passed by the State Legislative Assembly;
- (b) Break down of law and order and security in the State, including armed rebellion in the State;
- (c) Repeated Failure of the State Government to comply with any orders of the Supreme Court of India or the High Court of the State; or
- (d) A judicial determination by the Supreme Court of India that the government of the State is not being carried out in accordance with the provisions of the Constitution.”

3. The following to be added in clause (3) :-

(A) After the words “approved by resolutions”, the words “of a majority of not less than two-thirds of the members of each house of Parliament present and voting” shall be added;

STATEMENT OF OBJECTS AND REASONS

1. The Constitution Amendment Bill proposes certain amendments to Article 356 of the Constitution (“Provision in case of failure of Constitutional machinery in States”) to further secure federalism and democratic rule.
2. The Constitution Amendment Bill proposes that the majority required for approval of the proclamation of President’s rule by Lok Sabha and Rajya Sabha be increased from simple majority to special majority in each House (para (3) of the Bill).
3. The Constitution Amendment Bill also proposes that notice must be issued by the Union to the concerned State Government, fourteen days prior to issuance of any proclamation of President’s Rule, setting out the grounds on which the President is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution; and identifying the steps that need to be taken by the State Government to redress the situation to the satisfaction of the President. The Bill would require that the President take into due consideration any action taken by the State Government, or communication received from the State Government through the Governor, pursuant to the said notice and that the President may also call for a fresh report from the Governor (para (2) (C) of the Bill).
4. The Bill also proposes that the grounds on which a determination may be made whether a situation has arisen in which the government of a State cannot be carried on in accordance with the provisions of the Constitution shall be restricted to one or more of the following (para (2) (C) of the Bill):
 - (a) Loss of support of the majority of members of the State Legislative Assembly for the State Government as proved in a no-confidence motion passed by the State Legislative Assembly;
 - (b) Break down of law and order and security in the State, including armed rebellion in the State;
 - (c) Repeated failure of the State Government to comply with any orders of the Supreme Court of India or the High Court of the State; or
 - (d) A judicial determination by the Supreme Court of India that the government of the State is not being carried out in accordance with the provisions of the Constitution.
5. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 3rd October, 2016.