



## **Amending Act 2 - CONSTITUTION (NINETY-FIRST AMENDMENT) ACT, 2003**

THE CONSTITUTION (NINETY-FIRST AMENDMENT) ACT, 2003

[1st January, 2004]

### **PREAMBLE**

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:--

#### **1. Short title--**

This Act may be called the Constitution (Ninety-first Amendment) Act, 2003.

#### **2. Amendment of Article 75--**

In Article 75 of the Constitution, after clause (1), the following clauses shall be inserted, namely:--

"(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier."

#### **3. Amendment of Article 164--**

In Article 164 of the Constitution, after clause (1), the following clauses shall be inserted, namely:--

"(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister, in a State shall not be less than twelve:

Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003

exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then, the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier."

#### **4. Insertion of new Article 361B--**

After Article 361A of the Constitution, the following Article shall be inserted, namely:--

'361B. Disqualification for appointment on remunerative political post A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.--For the purposes of this Article,--

- (a) the expression "House" has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule;
- (b) the expression "remunerative political post" means any office--
  - (i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or
  - (ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body, except where such salary or remuneration paid is compensatory in nature.'

#### **5. Amendment of the Tenth Schedule--**

In the Tenth Schedule to the Constitution,--

- (a) in paragraph 1, in clause (b), the words and figure "paragraph 3 or, as the case may be," shall be omitted;
- (b) in paragraph 2, in sub-paragraph (1), for the words and figures "paragraphs 3, 4 and 5", the words and figures "paragraphs 4 and 5" shall be substituted;
- (c) paragraph 3 shall be omitted.

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Secy. to the Govt. of India.