|  |  |  |
| --- | --- | --- |
| **101st CONSTITUTION (AMENDMENT) ACT - INDEX** | | |
| **SECTION** | **HEADINGS** | **QR Code** |
| 1 | [Short title and commencement](1.%20101st%20Constitution%20(Amendment)%20Act/1.%20Short%20title%20and%20commencement.docx) |  |
| 2 | [Insertion of new article 246A](1.%20101st%20Constitution%20(Amendment)%20Act/2.%20Insertion%20of%20new%20article%20246A.docx) |  |
| 3 | [Amendment of article 248](1.%20101st%20Constitution%20(Amendment)%20Act/3.%20Amendment%20of%20article%20248.docx) |  |
| 4 | [Amendment of article 249](1.%20101st%20Constitution%20(Amendment)%20Act/4.%20Amendment%20of%20article%20249.docx) |  |
| 5 | [Amendment of article 250](1.%20101st%20Constitution%20(Amendment)%20Act/5.%20Amendment%20of%20article%20250.docx) |  |
| 6 | [Amendment of article 268](1.%20101st%20Constitution%20(Amendment)%20Act/6.%20Amendment%20of%20article%20268.docx) |  |
| 7 | [Omission of article 268A](1.%20101st%20Constitution%20(Amendment)%20Act/7.%20Omission%20of%20article%20268A.docx) |  |
| 8 | [Amendment of article 269](1.%20101st%20Constitution%20(Amendment)%20Act/8.%20Amendment%20of%20article%20269.docx) |  |
| 9 | [Insertion of new article 269A](1.%20101st%20Constitution%20(Amendment)%20Act/9.%20Insertion%20of%20new%20article%20269A.docx) |  |
| 10 | [Amendment of article 270](1.%20101st%20Constitution%20(Amendment)%20Act/10.%20Amendment%20of%20article%20270.docx) |  |
| 11 | [Amendment of article 271](1.%20101st%20Constitution%20(Amendment)%20Act/11.%20Amendment%20of%20article%20271.docx) |  |
| 12 | [Insertion of new article 279A](1.%20101st%20Constitution%20(Amendment)%20Act/12.%20Insertion%20of%20new%20article%20279A.docx) |  |
| 13 | [Amendment of article 286](1.%20101st%20Constitution%20(Amendment)%20Act/13.%20Amendment%20of%20article%20286.docx) |  |
| 14 | [Amendment of article 366](1.%20101st%20Constitution%20(Amendment)%20Act/14.%20Amendment%20of%20article%20366.docx) |  |
| 15 | [Amendment of article 368](1.%20101st%20Constitution%20(Amendment)%20Act/15.%20Amendment%20of%20article%20368.docx) |  |
| 16 | [Amendment of Sixth Schedule](1.%20101st%20Constitution%20(Amendment)%20Act/16.%20Amendment%20of%20Sixth%20Schedule.docx) |  |
| 17 | [Amendment of Seventh Schedule](1.%20101st%20Constitution%20(Amendment)%20Act/17.%20Amendment%20of%20Seventh%20Schedule.docx) |  |
| 18 | [Compensation to States for loss of revenue on account of introduction of goods and services tax](1.%20101st%20Constitution%20(Amendment)%20Act/18.%20Compensation%20to%20States%20for%20loss%20of%20revenue%20on%20account%20of%20introduction%20of%20goods%20and%20services%20tax.docx) |  |
| 19 | [Transitional provisions](1.%20101st%20Constitution%20(Amendment)%20Act/19.%20Transitional%20provisions.docx) |  |
| 20 | [Power of President to remove difficulties](1.%20101st%20Constitution%20(Amendment)%20Act/20.%20Power%20of%20President%20to%20remove%20difficulties.docx) |  |

**THE CONSTITUTION (ONE HUNDRED AND FIRST**

**AMENDMENT) ACT, 2016**

**[8*th September*, 2016.]**

An Act 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. **Short title and commencement.**

(*1*) This Act may be called the Constitution (One Hundred and First Amendment)Act, 2016.

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

1. **Insertion of new article 246A.**

After article 246 of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to goods and 5services tax.

"246A. (1) Notwithstanding anything contained in articles 246 and 254,Parliament, and, subject to clause (2), the Legislature of every State, have power tomake laws with respect to goods and services tax imposed by the Union or by suchState.

(2) Parliament has exclusive power to make laws with respect to goods andservices tax where the supply of goods, or of services, or both takes place in thecourse of inter-State trade or commerce.

*Explanation.*—The provisions of this article, shall, in respect of goods andservices tax referred to in clause (5) of article 279A, take effect from the daterecommended by the Goods and Services Tax Council.’’.

1. **Amendment of article 248.**

In article 248 of the Constitution, in clause (1), for the word "Parliament", the words,figures and letter "Subject to article 246A, Parliament" shall be substituted.

1. **Amendment of article 249**

In article 249 of the Constitution, in clause (1), after the words "with respect to", the words,figures and letter "goods and services tax provided under article 246A or" shall be inserted.

1. **Amendment of article 250.**

In article 250 of the Constitution, in clause (1), after the words "with respect to", thewords, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

1. **Amendment of article 268.**

In article 268 of the Constitution, in clause (1), the words "and such duties of exciseon medicinal and toilet preparations" shall be omitted.

1. **Omission of article 268A.**

Article 268A of the Constitution, as inserted by section 2 of the Constitution(Eighty-eighth Amendment) Act, 2003 shall be omitted.

1. **Amendment of article 269.**

In article 269 of the Constitution, in clause (1), after the words "consignment ofgoods", the words, figures and letter "except as provided in article 269A" shall be inserted.

1. **Insertion of new article 269A.**

After article 269 of the Constitution, the following article shall be inserted, namely:—

**Levy and collection of goods and services tax in course of inter-State trade or commerce.**

‘‘269A. (1) Goods and services tax on supplies in the course of inter-State tradeor commerce shall be levied and collected by the Government of India and such taxshall be apportioned between the Union and the States in the manner as may beprovided by Parliament by law on the recommendations of the Goods and ServicesTax Council.

*Explanation.*—For the purposes of this clause, supply of goods, or of services,or both in the course of import into the territory of India shall be deemed to be supplyof goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of theConsolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used forpayment of the tax levied by a State under article 246A, such amount shall not formpart of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A hasbeen used for payment of the tax levied under clause (1), such amount shall not formpart of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place ofsupply, and when a supply of goods, or of services, or both takes place in the courseof inter-State trade or commerce.’’.

1. **Amendment of article 270.**

In article 270 of the Constitution,—

(*i*) in clause (1), for the words, figures and letter "articles 268, 268A and 269", thewords, figures and letter "articles 268, 269 and 269A" shall be substituted;

(*ii*) after clause (1), the following clauses shall be inserted, namely:—

‘‘(1A) The tax collected by the Union under clause (1) of article 246A shall

also be distributed between the Union and the States in the manner provided inclause (2).

(1B) The tax levied and collected by the Union under clause (2) of article246A and article 269A, which has been used for payment of the tax levied by theUnion under clause (1) of article 246A, and the amount apportioned to theUnion under clause (1) of article 269A, shall also be distributed between theUnion and the States in the manner provided in clause (2).’’.

1. **Amendment of article 271.**

In article 271 of the Constitution, after the words ‘‘in those articles’’, the words,

figures and letter ‘‘except the goods and services tax under article 246A,’’ shall be inserted.

1. **Insertion of new article 279A.**

After article 279 of the Constitution, the following article shall be inserted, namely:—

**Goods and Services Tax Council.**

‘‘279A. (1) The President shall, within sixty days from the date of commencementof the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitutea Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members,namely:—

(*a*) the Union Finance Minister........................ Chairperson;

(*b*) the Union Minister of State in charge of Revenue orFinance................. Member;

(*c*) the Minister in charge of Finance or Taxation or any other Ministernominated by each State Government....................Members.

(3) The Members of the Goods and Services Tax Council referred to insub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselvesto be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to theUnion and the States on—

(*a*) the taxes, cesses and surcharges levied by the Union, the States andthe local bodies which may be subsumed in the goods and services tax;

(*b*) the goods and services that may be subjected to, or exempted from thegoods and services tax;

(*c*) model Goods and Services Tax Laws, principles of levy, apportionmentof Goods and Services Tax levied on supplies in the course of inter-State trade orcommerce under article 269A and the principles that govern the place of supply;

(*d*) the threshold limit of turnover below which goods and services may beexempted from goods and services tax;

(*e*) the rates including floor rates with bands of goods and services tax;

(*f*) any special rate or rates for a specified period, to raise additionalresources during any natural calamity or disaster;

(*g*) special provision with respect to the States of Arunachal Pradesh,Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim,Tripura, Himachal Pradesh and Uttarakhand; and

(*h*) any other matter relating to the goods and services tax, as the Councilmay decide.

(5) The Goods and Services Tax Council shall recommend the date on which thegoods and services tax be levied on petroleum crude, high speed diesel, motor spirit

(commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods andServices Tax Council shall be guided by the need for a harmonised structure of goodsand services tax and for the development of a harmonised national market for goodsand services.

(7) One-half of the total number of Members of the Goods and Services TaxCouncil shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in theperformance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at ameeting, by a majority of not less than three-fourths of the weighted votes of themembers present and voting, in accordance with the following principles, namely:—

(*a*) the vote of the Central Government shall have a weightage of onethirdof the total votes cast, and

(*b*) the votes of all the State Governments taken together shall have aweightage of two-thirds of the total votes cast,in that meeting**.**

(10) No act or proceedings of the Goods and Services Tax Council shall beinvalid merely by reason of—

(*a*) any vacancy in, or any defect in, the constitution of the Council; or

(*b*) any defect in the appointment of a person as a Member of the Council; or

*(c)* any procedural irregularity of the Council not affecting the merits of

the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicateany dispute —

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one sideand one or more other States on the other side; or

(c) between two or more States,arising out of the recommendations of the Council or implementation thereof.’’.

1. **Amendment of article 286.**

In article 286 of the Constitution,—

*(i)* in clause (1),—

*(A)* for the words "the sale or purchase of goods where such sale orpurchase takes place", the words "the supply of goods or of services or both,where such supply takes place" shall be substituted;

*(B)* in sub-clause *(b),* for the word “goods”, at both the places where itoccurs, the words “goods or services or both” shall be substituted;

*(ii)* in clause (2), for the words "sale or purchase of goods takes place", thewords "supply of goods or of services or both" shall be substituted;

*(iii)* clause (3) shall be omitted.

1. **Amendment of article 366.**

In article 366 of the Constitution,—

*(i)* after clause (12), the following clause shall be inserted, namely:—

‘(12A) “goods and services tax” means any tax on supply of goods, orservices or both except taxes on the supply of the alcoholic liquor for humanconsumption;’;

*(ii)* after clause (26), the following clauses shall be inserted, namely:—

‘(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article

279A includes a Union territory with Legislature;’.

1. **Amendment of article 368.**

In article 368 of the Constitution, in clause (2), in the proviso, in clause (*a*), for thewords and figures “article 162 or article 241”, the words, figures and letter “article 162, article241 or article 279A” shall be substituted.

1. **Amendment of Sixth Schedule.**

In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

*(i)* in clause *(c),* the word "and" occurring at the end shall be omitted;

*(ii)* in clause *(d)*, the word "and" shall be inserted at the end;

*(iii)* after clause *(d),* the following clause shall be inserted, namely:—

*"(e)* taxes on entertainment and amusements.".

1. **Amendment of Seventh Schedule.**

In the Seventh Schedule to the Constitution,—

(*a)* in List I—Union List,—

*(i)* for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or

produced in India, namely:—

*(a)* petroleum crude;

*(b)* high speed diesel;

*(c)* motor spirit (commonly known as petrol);

*(d)* natural gas;

*(e)* aviation turbine fuel; and

*(f)* tobacco and tobacco products.";

*(ii)* entries 92 and 92C shall be omitted;

*(b)* in List II—State List,—

*(i)* entry 52 shall be omitted;

*(ii)* for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motorspirit (commonly known as petrol), natural gas, aviation turbine fuel andalcoholic liquor for human consumption, but not including sale in thecourse of inter-State trade or commerce or sale in the course of internationaltrade or commerce of such goods.";

*(iii)* entry 55 shall be omitted;

*(iv)* for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent leviedand collected by a Panchayat or a Municipality or a Regional Council or aDistrict Council.".

1. **Compensation to States for loss of revenue on account of introduction of goods and services tax.**

Parliament shall, by law, on the recommendation of the Goods and Services TaxCouncil, provide for compensation to the States for loss of revenue arising on account ofimplementation of the goods and services tax for a period of five years.

1. **Transitional provisions.**

Notwithstanding anything in this Act, any provision of any law relating to tax ongoods or services or on both in force in any State immediately before the commencement ofthis Act, which is inconsistent with the provisions of the Constitution as amended by thisAct shall continue to be in force until amended or repealed by a competent Legislature orother competent authority or until expiration of one year from such commencement, whicheveris earlier.

1. **Power of President to remove difficulties.**

(*1*) If any difficulty arises in giving effect to the provisions of the Constitution asamended by this Act (including any difficulty in relation to the transition from the provisionsof the Constitution as they stood immediately before the date of assent of the President tothis Act to the provisions of the Constitution as amended by this Act), the President may,by order, make such provisions, including any adaptation or modification of any provisionof the Constitution as amended by this Act or law, as appear to the President to be necessaryor expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the dateof such assent.

(*2*) Every order made under sub-section (*1*) shall, as soon as may be after it is made, belaid before each House of Parliament.

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