

Bill No. VIII of 2019

THE CONSTITUTION (ONE HUNDRED AND TWENTY-FIFTH
AMENDMENT) BILL, 2019

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette appoint.

2. In article 280 of the Constitution, in clause (3), after sub-clause (c), the following
sub-clause shall be inserted, namely:— Amendment
of article 280.

"(ca) the measures needed to augment the Consolidated Fund of a State to
supplement the resources of the District Councils including Village Councils and
Municipal Councils in the tribal areas within the States referred to in clause (2) of
10 article 244 on the basis of the recommendations made by the Finance Commissions of
the said States;"

3. In the Sixth Schedule to the Constitution,—

(a) in paragraph 2,—

(i) in sub-paragraph (1), after the proviso, the following provisos shall be inserted, namely:—

“Provided further that the Karbi Anglong Autonomous Territorial Council shall consist of not more than fifty members, of whom six members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of adult suffrage: 5

Provided also that the Dima Hasao Autonomous Territorial Council shall consist of not more than forty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of adult suffrage: 10

Provided also that Garo Hills Autonomous Territorial Council shall consist of not more than forty-two members, of whom thirty-six shall be elected on the basis of adult suffrage. The Governor will nominate six members of whom at least two shall be women and at least four shall be from the unrepresented tribes: 15

Provided also that Khasi Hills Autonomous Territorial Council shall consist of not more than forty members, of whom thirty-six shall be elected on the basis of adult suffrage. The Governor will nominate four members of whom at least two shall be women and at least two shall be from the unrepresented tribes: 20

Provided also that Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty-four members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of adult suffrage: 25

Provided also that the Lai, Chakma and Mara Autonomous District Council and the Tripura Tribal Areas Autonomous Territorial Council each of which shall consist of not more than thirty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of adult suffrage: 30

Provided also that the increase in the number of members of the said Autonomous Territorial Councils under the second, third, fourth and fifth provisos shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019, but shall apply to the elections to be held in those Councils after the expiry of their respective terms on or after such commencement.”; 35

(ii) in sub-paragraph (3), for the first proviso, the following proviso shall be substituted, namely:— 40

"Provided that—

(a) the District Council constituted for the Karbi Anglong District shall be called the Karbi Anglong Autonomous Territorial Council; 45

(b) the District Council constituted for the Dima Hasao District shall be called the Dima Hasao Autonomous Territorial Council;

(c) the District Council constituted for the Garo Hills District shall be called the Garo Hills Autonomous Territorial Council;

(d) the District Council constituted for the Khasi Hills District shall be called the Khasi Hills Autonomous Territorial Council; 50

(e) the District Council constituted for the Jaintia Hills District shall be called the Jaintia Hills Autonomous Territorial Council; and

(f) the District Council constituted for the Tripura Tribal Areas shall be called the Tripura Tribal Areas Autonomous Territorial Council.";

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(iii) in sub-paragraph (6), after clause (d), the following clause shall be inserted, namely:—

"(da) the disqualification of members of such Councils on the ground of defection;"

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(iv) in sub-paragraph (6A), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that where an elected member of the District Council is chosen as a Member in either House of Parliament or in the House of the Legislature of a State, his seat in the District Council shall become vacant after the expiration of a period of fourteen days from the date of publication of the declaration in the Gazette of India or in the Official Gazette of the State, that he has been so chosen.";

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(v) after sub-paragraph (7), the following sub-paragraph shall be inserted, namely:—

"(8) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the District Council, Regional Council, Village Council and Municipal Council shall be vested in a State Election Commission appointed by the Governor for that State:

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Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya until approved by the Governor of that State.";

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(b) after paragraph 2, the following paragraph shall be inserted, namely:—

"2A. (1) Within a period of one year from the date of commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019, each District Council shall establish Village Councils for a village or a group of villages in the rural areas and the Municipal Councils for an urban area or an agglomeration of such urban areas of the district.

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Establishment
of Village
Councils and
Municipal
Councils.

(2) The District Council may, by law, provide for—

(a) the number of Village Councils and Municipal Councils to be formed, their composition, number of seats in each such Council in such manner that their numbers remain the same throughout the district;

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(b) the manner of allocation of seats in such Councils subject to reservation of not less than one-third seats for women;

(c) the delimitation of territorial constituencies for the purpose of election to the Village Council and Municipal Council on the basis of adult suffrage;

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(d) the qualification for voting at election to such Councils;

(e) the qualifications for being elected as members of such Councils;

(f) the term of office of members which shall not be less than five years;

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(g) the grounds for disqualification of members;

(h) the powers to be exercised and functions to be performed by such Councils; and

(i) any other matter relating thereto:

Provided that nothing in sub-paragraphs (1) and (2) shall apply to the State of Meghalaya until approved by the Governor of that State.";

(3) Each District Council shall also constitute a District Planning Committee for the district consisting of such number of elected members from the District Council or Regional Council and from each of the Village Councils and the Municipal Councils, as it deems necessary, for the purpose of consolidating plans prepared by each such Council and to prepare a development plan for the district as a whole and such other matters relating thereto. 5

(4) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect."; 10

(c) in paragraph 3A, in sub-paragraph (1),—

(i) in clause (c), for the word "preservation", the word "animal husbandry and veterinary, that is to say, preservation" shall be substituted;

(ii) for clause (d), the following clause shall be substituted, namely:— 15

"(d) education, that is to say, primary and secondary education, higher secondary education including vocational training, adult education and college education (general);" ;

(iii) in clause (n),—

(a) after the words "libraries, museums", the word ",archaeology" shall be inserted; 20

(b) the word "and", occurring at the end shall be omitted;

(iv) after clause (o), the following clauses shall be inserted, namely:—

(p) forests (other than reserved forest);

(q) public works relating to the Public Works Department; 25

(r) sericulture;

(s) cultural affairs;

(t) soil conservation;

(u) co-operation;

(v) handloom and textile; 30

(w) health and family welfare;

(x) public health engineering;

(y) social welfare;

(z) sports and youth welfare;

(za) weight and measures subject to the provisions of entry 50 of List 1 of the Seventh Schedule; 35

(zb) food and civil supplies;

(zc) publicity and public relation;

(zd) printing and stationery;

(ze) tourism; 40

(zf) urban development including town and country planning;

(zg) tribal research institute controlled and financed by the State Government;

(zh) land and revenue, land reforms;

(zi) planning and development;

(zj) Municipal Corporation or Boards, improvement trust, district boards and other local authorities;

(zk) welfare of tribes living in hilly areas;

5 (zl) markets and fairs;

(zm) lotteries subject to the provisions of entry 40 of List 1 of the Seventh Schedule;

(zn) statistics;

10 (zo) intoxicating liquors, opium and derivatives subject to the provisions of entry 84 of List 1 of the Seventh Schedule;

(zp) labour and employment;

(zq) registration of births and deaths;

(zr) small, cottage and rural industry; and

15 (zs) rural development including District Rural Development Agency.";

(d) in paragraph 6, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

20 "(3) The Governor may, by rules, entrust the District Council or as the case may be, the Regional Council, with such powers and authority as may be necessary to enable them to function as institutions of self-governance and such rules may contain provisions for further devolution of such powers and responsibilities upon—

(a) the Village Council, subject to such conditions as may be specified therein, with respect to—

25 (i) the preparation of plans for economic development and social justice;

30 (ii) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to agriculture and agricultural extension, land improvement, implementation of land reforms, land consolidation and soil conservation, minor irrigation, water management and watershed development, animal husbandry, dairying and poultry, fisheries, social forestry and farm forestry, minor forest produce, small scale industries including food processing industries, khadi, village and cottage industries, rural housing, drinking water, fuel and fodder, roads, culverts, bridges, ferries, waterways and other means of communication, rural electrification including distribution of electricity, non-conventional energy sources, poverty alleviation programme, education including primary and secondary schools, technical training and vocational education, adult and non-formal education, libraries, cultural activities, markets and fairs, health and sanitation including hospitals, primary health centres and dispensaries, family welfare, women and child development, social welfare including welfare of the persons with disability (Divyangjan),
35 welfare of the weaker sections, in particular, of the Scheduled Castes and Scheduled Tribes, public distribution system and maintenance of community assets; and
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(b) the Municipal Council subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to urban planning and town planning, regulation of land-use and construction of buildings, planning for economic and social development, roads and bridges, water supply for domestic, industrial and commercial purposes, public health, sanitation conservancy and solid waste management, fire services, urban forestry, protection of the environment and promotion of ecological aspects, safeguarding the interests of weaker sections of society including the persons with disability (Divyangjan), slum improvement and upgradation, urban poverty alleviation, provision of urban amenities and facilities such as parks, gardens, play grounds, promotion of cultural, educational and aesthetic aspects, burials and burial grounds, cremations, cremation grounds and electric crematoriums, cattle pounds, prevention of cruelty to animals, vital statistics including registration of births and deaths, public amenities including street lighting, parking lots, bus stops and public conveniences and regulation of slaughter houses and tanneries.";

(e) after paragraph 8, the following paragraph shall be inserted, namely:—

"8A. (1) The Finance Commission appointed by the Governor for a State shall review the financial position of the District Councils including the Village Council and Municipal Council and to make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the District Councils of the net proceeds of the taxes, duties, tolls and fees leviable by the State, and the allocation of such proceeds between the District Councils and the Village Councils and the Municipal Councils under its authority;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the District Councils including the Village Councils and the Municipal Councils under its authority;

(iii) the grants-in-aid to the District Councils and the Village Councils and the Municipal Councils under its authority from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the District Councils and the Village Councils and the Municipal Councils under its authority; and

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance.

(2) The Governor shall cause every recommendation made by the Commission under sub-paragraph (1) together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.";

Constitution of Finance Commission to review financial position.

(f) in paragraph 20, in the Table, in Part I, for serial number 1 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"1. The Dima Hasao District";

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(g) in paragraph 20 BA, for the words "the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council", the words "the Dima Hasao Autonomous Territorial Council or the Karbi Anglong Autonomous Territorial Council" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The provisions of the Sixth Schedule to the Constitution have evolved a separate scheme for the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura through the District Councils or Regional Councils. The Councils are vested with legislative powers on specified subject and are allotted certain sources of taxation. They have also been given powers to set up and administer their system of justice and maintain administrative and welfare services.

2. The Constitution (Seventy-third Amendment) Act, 1992 and the Constitution (Seventy-fourth Amendment) Act, 1992 which are not applicable to the Sixth Schedule areas, brought in considerable devolution of powers to local bodies in rest of the country. In some areas, Autonomous Councils in the Sixth Schedule areas are less empowered than the Panchayati Raj Institutions functioning in other parts of the country. A review of the provisions of the Sixth Schedule to the Constitution and provisions of the Constitution (Seventy-third Amendment) Act, 1992 and the Constitution (Seventy-fourth Amendment) Act, 1992 indicates certain deficiencies in provisions of the Sixth Schedule.

3. At present, there is no provision for the recommendations of the Finance Commission set up under article 280 of the Constitution to provide separate funds for the Autonomous District Councils in Sixth Schedule areas which results in inadequate socio-economic infrastructure in the Autonomous District Council areas.

4. Two Memoranda of Settlement were signed between the Government of India, State Government of Assam and United People's Democratic Solidarity (2011) and Dima Haram Daogah (2012). Another Memoranda of Settlement was signed between the Government of India, State Government of Meghalaya and Achik National Volunteers' Council (2014). All these Memoranda of Settlement aim at enhancing autonomy of the existing Autonomous Councils, renaming the Councils and increasing the number of seats in the concerned Councils.

5. In view of the above, it has been decided to amend the Constitution of India. Accordingly, the Constitution (One Hundred and Twenty-fifth Amendment) Bill, 2019, *inter alia*, provides for the following, namely:—

(a) to amend article 280 of the Constitution enabling the Finance Commission to recommend measures needed to augment the Consolidated Fund of the States to supplement resources of the Sixth Schedule Autonomous Councils, Village Councils and Municipal Councils;

(b) to rename the existing autonomous District Councils;

(c) to increase the number of seats in the District Councils;

(d) to provide for reservation of at least two seats for women in the District Councils;

(e) to transfer additional subjects to Karbi Anglong and Dima Hasao Autonomous Territorial Councils;

(f) to constitute the State Finance Commissions in the States having the Sixth Schedule areas;

(g) to conduct elections to all Autonomous Councils by the State Election Commission;

(h) providing for disqualification of elected members on account of defection.

6. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 30th January, 2019.

RAJNATHSINGH.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*
Finance Commission.	280. (1)*	*	*	*	*
	(3) It shall be the duty of the Commission to make recommendations to the President as to—				
	*	*	*	*	*
	(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;				
	*	*	*	*	*
Autonomous districts and autonomous regions.	1. (1)*	*	*	*	*
	(2) If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.				
	(3) The Governor may, by public notification,—				
	*	*	*	*	*
	Provided that no order shall be made by the Governor under clauses (c), (d), (e) and (f) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule:				
	*	*	*	*	*
	(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned, and such rules shall provide for—				
	(d) the qualifications for being elected at such elections as members of such Councils;				
	*	*	*	*	*
Additional powers of the North Cachar Hills Autonomous council and the Karbi Anglong Autonomous Council to make laws.	3A.	Without prejudice to the provisions of paragraph 3, the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council within their respective districts, shall have power to make laws with respect to—			
	*	*	*	*	*
	(c) preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice; cattle pounds;				
	(d) primary and secondary education;				
	*	*	*	*	*
	(n) libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; and				
	(o) alienation of land.				
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RAJYASABHA

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BILL
further to amend the Constitution of India

(Shri Rajnath Singh, Minister of Home Affairs)