

36th Constitutional Amendment Act 1975, Background, Provisions

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36th Constitutional Amendment Act, 1975 was a landmark constitutional amendment that formally **integrated Sikkim as the 22nd State of India**. It ended Sikkim's transitional status as an Associate State and provided special constitutional safeguards through **Article 371F** to protect its unique historical and social circumstances.

36th Constitutional Amendment Act, 1975 Background

The integration of Sikkim into the Indian Union was a gradual constitutional and political process that culminated in the 36th Constitutional Amendment Act, 1975.

- Under the **Indo-Sikkim Treaty, 1950**, **Sikkim** became an **Indian protectorate**, with India responsible for its defence, external affairs and communications, while the hereditary monarch, the **Chogyal**, continued to administer the kingdom's internal affairs.
- During the 1960s and early 1970s, growing public demand for democracy and responsible government led to political tensions between the Chogyal and the elected political leadership.

- To resolve the crisis, the **Tripartite Agreement of 8 May 1973** was signed between the Chogyal, the leaders of major political parties in Sikkim and the Government of India, laying the foundation for democratic governance.
- The **Government of Sikkim Act, 1974** established a responsible government based on an elected Legislative Assembly.
- Parliament enacted the **35th Constitutional Amendment Act, 1974, granting Sikkim the unique status of an Associate State by inserting Article 2A and the Tenth Schedule**. However, this arrangement was intended as a transitional measure.
- On 10 April 1975, the Sikkim Legislative Assembly unanimously resolved to abolish the institution of the Chogyal and sought full integration with India.
- The resolution was endorsed through a special opinion poll (referendum) held on 14 April 1975, in which an overwhelming majority of voters supported Sikkim's merger with India and the establishment of a democratic government.

36th Constitutional Amendment Act, 1975 Key Provisions

The 36th Constitutional Amendment Act, 1975 introduced several constitutional changes to formally integrate Sikkim into the Indian Union while ensuring administrative continuity and protecting its unique identity.

- **Inclusion of Sikkim as a State:** The **First Schedule of the Constitution** was amended to include Sikkim as the 22nd State of India, granting it the same constitutional status as other states.
- **Insertion of Article 371F:** A new Article 371F was inserted to provide special constitutional provisions for Sikkim, taking into account its unique historical, social and political circumstances.
- **Representation in Parliament:** The **Fourth Schedule** was amended to allot one seat to Sikkim in the **Rajya Sabha**. Sikkim was also allotted one seat in the **Lok Sabha**, and until Parliament made further provisions, the entire State constituted a single parliamentary constituency.
- **Continuity of Democratic Governance:** The 32-member Legislative Assembly elected in April 1974 was recognised as the Legislative Assembly of the State of Sikkim, ensuring a smooth transition without the need for immediate fresh elections.
- **Continuity of Laws and Administration:** Existing laws, courts, government institutions and public authorities continued to function after statehood until modified or repealed by a competent legislature or authority, thereby ensuring administrative and legal continuity.
- **Transfer of Government Assets:** All property, assets and liabilities of the former Government of Sikkim were transferred to the Government of the State of Sikkim.
- **Omission of Associate State Provisions:** The amendment omitted Article 2A and the earlier Tenth Schedule, thereby abolishing Sikkim's temporary status as an Associate State. It also made consequential amendments to Articles 80 and 81, as well as the First and Fourth Schedules, to reflect Sikkim's status as a full-fledged State of India.

Article 371F: Special Provisions for Sikkim

Recognising Sikkim's distinct historical background and diverse social composition, Article 371F provides special constitutional safeguards to ensure its smooth integration into the Indian Union.

Legislative Assembly

- The Legislative Assembly of Sikkim must consist of not less than 30 members.
- The 32-member Assembly elected in 1974 was deemed to be the first Legislative Assembly of the State under the **Constitution of India**, ensuring continuity of democratic governance.
- For this transitional Assembly, the normal five-year tenure under Article 172 was treated as four years from the appointed day.

Representation in Parliament

- Sikkim was provided one seat each in the Lok Sabha and the Rajya Sabha.
- Until Parliament enacted a permanent law, the representative to the Lok Sabha was to be elected by the members of the Sikkim Legislative Assembly.

Protection of Different Sections of Society

- Parliament was empowered to make special provisions regarding the number of Assembly seats and the delimitation of constituencies to protect the rights and interests of different sections of Sikkim's population.

Special Responsibility of the Governor

- The Governor of Sikkim was entrusted with the special responsibility of maintaining peace and ensuring the social and economic advancement of different sections of the population.
- While exercising this responsibility, the Governor acts at his or her discretion, subject to the directions of the President of India.

Continuity of Laws and Institutions

- All existing laws in force before Sikkim became a State continued to remain valid until amended or repealed by a competent authority.
- The existing High Court, subordinate courts, government authorities and public officials continued to function after statehood, ensuring uninterrupted governance.

Adaptation of Existing Laws

- To facilitate constitutional integration, the President was empowered to adapt or modify existing Sikkim laws for two years so that they conformed to the Constitution of India.

Transfer of Property and Assets

- All government property, assets and liabilities that belonged to the former Government of Sikkim were transferred to the Government of the State of Sikkim.

Extension of Central Laws

- The President was empowered to extend Central laws applicable in other states to Sikkim, with suitable modifications whenever necessary.

Pre-merger Treaties and Agreements

- Courts, including the Supreme Court, were barred from deciding disputes arising from treaties and agreements relating to Sikkim that had been entered into before its integration with India, except under Article 143 relating to the advisory jurisdiction of the Supreme Court.

Removal of Difficulties

- The President was authorised to issue orders for two years to remove any difficulties in implementing Article 371F and to make necessary adaptations to ensure a smooth constitutional transition.

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