



DELHI LAW ACADEMY

SUPREME COURT & HIGH COURTS

All the provisions relating to the Supreme Court of India and the High Courts, from Articles 124 to 147 and from Articles 214 to 235, have been simplified and summarized by the Delhi Law Academy in 11 pages.

This sample contains the first 3 pages.....

Delhi Law Academy – India's Finest Coaching

RAJASTHAN ADMINISTRATIVE SERVICE

www.delhilawacademy.com

All materials, copyrights and trademarks are rights of their respective owners



SUPREME COURT OF INDIA

- The Supreme Court of India came into being on 28th January 1950
- It replaced both the Federal Court of India and the Judicial Committee of the Privy Council
- The first CJI of India was *Shri H. J. Kania*

Composition of Supreme Court [Article 124]

- Supreme Court of India consists of
 - Chief Justice of India and not more than 7 other judges
- Parliament may by law
 - prescribe a larger number of judges

Explanatory Notes from DLA

- The number of other judges was increased by Parliament to
 - 25 in 1986, 30 in 2008 and 33 in 2019
- Presently, the number of judges in the Supreme Court is 34.

APPOINTMENT OF SUPREME COURT JUDGES [Article 124(2)]

- A judge of the Supreme Court shall be appointed by the President
 - after **consultation** with such SC judges and HC judges
 - as the President deems necessary
- For appointment of a judge other than the Chief Justice
 - Chief Justice of India shall always be **consulted**

Explanatory Notes from DLA

Judicial interpretation on appointment to the Supreme Court

- The opinion of the Chief Justice of India **has primacy** in the matter of recommendation for appointment to the Supreme Court
- This opinion has to be formed in consultation with a **collegium of Judges**.
- *The collegium should consist of the Chief Justice of India and the four seniormost puisne Judges of the Supreme Court.*



- No one can be appointed to the Supreme Court unless his appointment is in conformity with the opinion of the Chief Justice of India.

This procedure for appointment to the Supreme Court was laid down in the following two judgments of the Supreme Court:

- (1) Supreme Court Advocates-on-Record Association v. Union of India: 1993
- (2) Re Special Reference No. 1 of 1998

99th Constitutional Amendment, 2014

- Amended articles 124, 217 and 222, Added articles 124A, 124B and 124C
- Provided for establishment of the National Judicial Appointments Commission for appointment of Supreme Court Judges

Effect of the 99th Amendment:

- A Judge of the Supreme Court shall be appointed by the President
 - **on recommendation** of the National Judicial Appointments Commission

Composition of the National Judicial Appointments Commission: Article 124A

- It comprised of the following 6 members:
 - (a) Chief Justice of India: Chairperson, ex officio
 - (b) two other seniormost Judges of Supreme Court: Members, ex officio
 - (c) Union Minister in charge of Law and Justice: Member, ex officio
 - (d) two eminent persons, to be nominated: Members

99th Amendment Act : unconstitutional

The 99th Amendment Act was declared **unconstitutional** by the Supreme Court in 2015 in the case of **Supreme Court Advocates-on-Record-Association v. Union of India** on the following grounds:

- Article 124A does not provide an adequate representation to the judicial component in the NJAC and therefore is insufficient to preserve the primacy of the judiciary in the matter of selection and appointment of Judges. The



same is, accordingly, violative of the principle of “**independence of the judiciary**” which is a basic feature of our Constitution.

- Clause (c) of Article 124A(1) impinges upon the principles of “independence of the judiciary” as well as “separation of powers”.

Current Legal Status

- Appointment of Judges to the Supreme Court
 - shall continue to be governed by the original provisions
 - as interpreted by the Supreme Court in 1993 and 1998

Age of superannuation

- A Supreme Court judge shall hold office till the age of 65 years

Qualifications

- He should be a citizen of India
- He
 - should have been a judge of High Court for at least 5 years or
 - should have been an advocate of High Court for at least 10 years or
 - should be a distinguished jurist in the opinion of the President

Removal of a Supreme Court Judge

Grounds :

- Proved misbehaviour or
- Incapacity

Procedure

- A Supreme Court judge can be removed from office by an order of President
- Such an order can be passed only when each House passes a resolution by a majority of
 - total membership of that House, and
 - a majority of not less than 2/3rd of the members present and voting
- Procedure for investigation and proof of misbehaviour or incapacity
 - shall be regulated by Parliament by law.....