

# Representation of the People (Amendment) Act, 2008

February 15, 2013

## REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2008<sup>1</sup>

### [Act No. 10 of 2008]

[March 28, 2008]

Prefatory Note-Statement of Objects and Reasons.-Under the provisions of Articles 82 and 170(3) of the Constitution, as amended by the Constitution (Eighty-fourth Amendment) Act, 2001, Parliament enacted the Delimitation Act, 2002. In terms of the provisions contained in the Delimitation Act, the Delimitation Commission was set up to readjust the division of each State and Union territory into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assemblies on the basis of 2001 Census.

2. The Delimitation Commission has since completed the delimitation work in respect of 25 States/Union territories and accordingly issued final orders under Sections 8 and 9 of the Delimitation Act. Recently, the Delimitation (Amendment) Ordinance, 2008 (Ordinance 1 of 2008) was promulgated on 14th January, 2008 to insert new Sections 10-A and 10-B in the Delimitation Act. Section 10-A of the Delimitation Act empowers the President to defer delimitation exercise in a State in certain cases. In view of the prevailing conditions in North-East States of Arunachal Pradesh, Assam, Manipur and Nagaland, four orders to defer the delimitation exercise in these States have been issued by the President on 8th February, 2008. Section 10-B of the Delimitation Act has nullified the Delimitation Commission's orders issued with respect to the State of Jharkhand.

3. In view of the above, in the States of Arunachal Pradesh, Assam, Manipur, Nagaland and Jharkhand, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 will continue to apply. The final orders in respect of the remaining 24 States/Union territories (except the State of Jharkhand) were required to be brought into force as provided in the second proviso to Article 82 and the second proviso to clause (3) of Article 170 of the Constitution by specifying the date by the President, as to when the re-adjustments shall take effect. In pursuance of the above provisions, the Presidential Order has been issued on 19th February, 2008 making delimitation orders issued by the Delimitation Commission under the Delimitation Act, effective from immediate effect in all the 22 States/Union territories except in the States of Tripura and Meghalaya in which case, the delimitation order shall take effect from 20th March, 2008 after the elections to the Legislative Assemblies in these States are over on 19th March, 2008.

4. The Representation of the People Act, 1950 (43 of 1950) (the RP Act) provides for the allocation of seats in and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of the States, preparation of electoral rolls, etc., and for matters connected therewith. The First Schedule and the Second Schedule to the said Act provides for allocation of seats in the House of the People and the total number of seats in the Legislative Assemblies along with the number of seats reserved for the Scheduled Castes and



the Scheduled Tribes therein. With the issuance of the Presidential Order specifying the date on which the delimitation orders notified by the Delimitation Commission shall take effect, it is necessary to amend the relevant provisions and the First and the Second Schedule to the RP Act to reflect the changes made by the delimitation orders notified by the Delimitation Commission.

5. In the Bill, it is also proposed to insert new Section 8-A in the RP Act, which will enable the Election Commission to conduct delimitation exercise in the North-East States (where delimitation exercise had been deferred in the exigencies of the prevailing conditions), as soon as the conditions in these States become conducive to the conduct of delimitation work. Sections 8 and 9 of the RP Act are proposed to be amended to enable the Election Commission to consolidate the delimitation orders issued by the Delimitation Commission into a single order by superseding the existing Delimitation of Parliamentary and Assembly Constituencies Order, 1976 having regard to Sections 10-A and 10-B of the Delimitation Act, 2002.

6. The Bill seeks to achieve the abovesaid objectives.

An Act further to amend the Representation of the People Act, 1950

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:-

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**1. Received the assent of the President on March 28, 2008 and published in the Gazette of India, Extra., Part II, Section 1**

## 1. Short title and commencement

(1) This Act may be called the Representation of the People (Amendment) Act, 2008.

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

## 2. Amendment of Section 4

In Section 4 of the Representation of the People Act, 1950 (43 of 1950) (hereinafter referred to as the principal Act), for sub-section (5), the following sub-section shall be substituted, namely:-

“(5) Save as provided in sub-section (4), the extent of all parliamentary constituencies except the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 (33 of 2002) and the extent of the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of Sections 10-A and 10-B of the Delimitation Act, 2002.”

## 3. Amendment of Section 7

In Section 7 of the principal Act,-

(i) in sub-section (1B), in clause (a), for the words “thirty-nine seats”, the words “fifty-nine seats” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-



“(3) The extent of each assembly constituency in all the States and Union territories except the assembly constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 (33 of 2002) and the extent of each assembly constituency in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of Sections 10-A and 10-B of the Delimitation Act, 2002.”

## 4. Amendment of Section 8

In Section 8 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Having regard to all the orders referred to in sub-section (5) of Section 4 and sub-section (3) of Section 7 relating to the delimitation of parliamentary and assembly constituencies in all States and Union territories, except the State of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland, made by the Delimitation Commission and published in the Official Gazette, the Election Commission shall-

(a) after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, without, however, altering the extent of any such constituency;

(b) after taking into account the provisions of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as made ` applicable pursuant to the orders made by the President under Section 10-A of the Delimitation Act, 2002 (33 of 2002) relating to delimitation of parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland, and the provisions of Section 10-B of the said Act relating to delimitation of parliamentary and assembly constituencies in the State of Jharkhand, consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of Section 4 and sub-section (3) of Section 7 and shall have the force of law and shall not be called in question in any court.”

(ii) in sub-section (3), for the words, brackets and figures “as provided in sub-section (5) of Section 10 of the Delimitation Act, 1972 (76 of 1972)”, the words, brackets and figures “as provided in sub-section (5) of Section 10 of the Delimitation Act, 2002 (33 of 2002)” shall be substituted.

## 5. Insertion of new Section 8-A

After Section 8 of the principal Act, the following section shall be inserted, namely:-

“8-A. Delimitation of Parliamentary and Assembly Constituencies in the State of Arunachal Pradesh, Assam, Manipur or Nagaland.

(1) If the President is satisfied that the situation and the conditions prevailing in the States of Arunachal Pradesh, Assam, Manipur and Nagaland are conducive for the conduct of delimitation exercise, he may, by order, rescind the deferment order issued under the provisions of section



10A of the Delimitation Act, 2002 (33 of 2002) in relation to that State, and provide for the conduct of delimitation exercise in the State by the Election Commission.

(2) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine-

(a) the parliamentary constituencies into which such State to which more than one seat is allotted in the First Schedule shall be divided;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

(3) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine-

(a) the assembly constituencies into which such State shall be divided for the purpose of elections to the Legislative Assembly of that State;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

(4) Subject to the provisions of sub-section (1), the Election Commission shall, having regard to the provisions of the Constitution and the principles specified in clauses (c) and (d) of sub-section (1) of Section 9 of the Delimitation Act, 2002 (33 of 2002) determine the parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes.

(5) The Election Commission shall,-

(a) publish its proposals under sub-sections (2), (3) and (4) with respect to any State in the Official Gazette and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified;

(d) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in such State as it thinks fit;

(e) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the delimitation of parliamentary and assembly constituencies in the State and also the constituency or constituencies in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes and cause such order to be published in the Official Gazette; and, upon such publication, the order shall have the force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 shall be deemed to have been amended accordingly.

(6) Every order made under sub-sections (1) and (2) and clause (e) of sub-section (5) shall be laid before each House of Parliament.

(7) Every order made under sub-sections (1) and (3) and clause (e) of sub-section (5) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative



Assembly of the State concerned.”

## 6. Amendment of Section 9

In Section 9 of the principal Act, in sub-section (1), for clauses (a) and (ad), the following clauses shall be substituted, namely:-

“(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 or any error arising therein from inadvertent slip or omission;

(aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of Parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under Section 8-A of this Act or any other Central Act;”

## 7. Omission of Sections 9-A and 9-B

Section 9-A and Section 9-B of the principal Act shall be omitted.

## 8. Substitution of new Schedules for the First Schedule and the Second Schedule

For the First Schedule and the Second Schedule of the principal Act, the following Schedules shall be substituted, namely:-

### “THE FIRST SCHEDULE

(See Section 3)

Allocation of seats in the House of the People

Name of the State/Union territory	Number of seats in the House as constituted in 2004 on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
I Status:						
1. Andhra Pradesh	42	6	2	42	7	3
2. Arunachal Pradesh	2	..	..	2	..	..
3. Assam	14	1	2	14	1	2
4. Bihar	40	7	..	40	6	..
5. Chhattisgarh	11	2	4	11	1	4
6. Goa	2	..	..	2	..	..



7. Gujarat	26	2	4	26	2	4
8. Haryana	10	2	..	10	2	..
9. Himachal Pradesh	4	1	..	4	1	..
10. Jammu & Kashmir	6	..	..	6	..	..
11. Jharkhand	14	1	5	14	1	5
12. Karnataka	28	4	..	28	5	2
13. Kerala	20	2	..	20	2	..
14. Madhya Pradesh .	29	4	5	29	4	6
15. Maharashtra	48	3	4	48	5	4
16. Manipur	2	..	1	2	..	1
17. Meghalaya	2	..	..	2	..	2
18. Mizoram	1	..	1	1	..	1
19. Nagaland	1	..	..	1	..	..
20. Orissa	21	3	5	21	3	5
21. Punjab	13	3	..	13	4	..
22. Rajasthan	25	4	3	25	4	3
23. Sikkim	1	..	..	1	..	..
24. Tamil Nadu	39	7	..	39	7	..
25. Tripura	2	..	1	2	..	1
26. Uttarakhand	5	..	..	5	1	..
27. Uttar Pradesh	80	18	..	80	17	..
28. West Bengal	42	8	2	42	10	2
II Union Territories						
1. Andaman and Nicobar Islands	1	..	..	1	..	..
2. Chandigarh	1	..	..	1	..	..
3. Dadra and Nagar Haveli	1	..	1	1	..	1
4. Delhi	7	1	..	7	1	..
5. Daman and Diu	1	..	..	1	..	..
6. Lakshadweep	1	..	1	1	..	1
7. Puducherry	1	..	..	1	..	..
Total	543	79	41	543	84	47



## THE SECOND SCHEDULE

(See Sections 7 and 7-A)

### TOTAL NUMBER OF SEATS IN THE LEGISLATIVE ASSEMBLIES

Name of the State/Union territory	Number of seats in the House as constituted on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
I Status:						
1. Andhra Pradesh	294	39	15	294	48	19
2. Arunachal Pradesh	60	..	59	60	..	59
3. Assam	126	8	16	126	8	16
4. Bihar	243	39	..	243	38	2
5. Chhattisgarh	90	10	34	90	10	29
6. Goa	40	1	..	40	1	..
7. Gujarat	182	13	26	182	13	27
8. Haryana	90	17	..	90	17	..
9. Himachal Pradesh	68	16	3	68	17	3
10. Jammu and Kashmir*	76	6	..			
11. Jharkhand	81	9	28	81	9	28
12. Karnataka	224	33	2	224	36	15
13. Kerala	140	13	1	140	14	2
14. Madhya Pradesh .	230	34	41	230	35	47
15. Maharashtra	288	18	22	288	29	25
16. Manipur	60	1	19	60	1	19
17. Meghalaya	60	..	55	60	..	55
18. Mizoram	40	..	39	40	..	38
19. Nagaland	60	..	59	60	..	59
20. Orissa	147	22	34	147	24	33
21. Punjab	117	29	..	117	34	..
22. Rajasthan	200	33	24	200	34	25



23. Sikkim	32	2	12**	32	2	12**
24. Tamil Nadu	234	42	3	234	44	2
25. Tripura	60	7	20	60	10	20
26. Uttarakhand	70	12	3	70	13	2
27. Uttar Pradesh	403	89	..	403	85	..
28. West Bengal	294	59	17	294	68	16
II Union Territories:						
1. Delhi	70	13	..	70	12	..
2. Pondicherry	30	5	..	30	5	..

**\*Under the Constitution of Jammu and Kashmir, the number of seats in the Legislative Assembly of that State excluding the 24 seats earmarked for Pakistan occupied territory is 87 out of which 7 seats have been reserved for the Scheduled Castes in pursuance of the Jammu and Kashmir Representation of the People Act, 1957.**

**\*\*Reserved 1 seat for Sanghas and 12 seats for the Sikkimese of Bhutia Lepcha origin.**

