

Bill No. 103 of 2010

THE CONSTITUTION (ONE HUNDRED AND FOURTEENTH
AMENDMENT) BILL, 2010

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Fourteenth Amendment) Act, 2010. 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 217 of the Constitution, in clause (1), for the words "sixty-two years", the words "sixty-five years" shall be substituted. Amendment of article 217.

3. In article 224 of the Constitution, in clause (3), for the words "sixty-two years", the words "sixty-five years" shall be substituted. Amendment of article 224.

STATEMENT OF OBJECTS AND REASONS

Clause (1) of article 217 of the Constitution of India allows every Judge of a High Court to hold office until he attains the age of sixty-two years. Clause (3) of article 224 of the Constitution provides that no person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty-two years. The age of retirement of High Court Judges, which was fixed at sixty years in the beginning, was enhanced to sixty-two years by the Constitution (Fifteenth Amendment) Act, 1963. Since then, no revision has taken place in this regard.

2. The Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 39th Report dated the 29th April, 2010, has recommended to raise the retirement age of the Judges of the High Courts from sixty-two to sixty-five to be at par with the retirement age of the Judges of the Supreme Court. Further, most of the reasons adduced by the Fifth Central Pay Commission in support of its recommendation for increasing the age of retirement of the Central Government employees, such as global practices, increase in life expectancy, improved health standards, need for utilisation of experience and wisdom of senior employees, etc., would also apply to the Judges.

3. In view of the present state of vacancies of Judges in High Courts, it is extremely difficult to clear the heavy pendency of cases in the High Courts. Increasing the age of retirement by three more years would restrict occurrence of new vacancies on account of superannuation for the next three years during which time the existing backlog in vacancies could be cleared. This would have a clear impact on reduction of pendency of cases in the High Courts.

4. It is, therefore, proposed to increase the age of retirement of Judges and additional or acting Judges of High Courts from sixty-two years to sixty-five years.

5. The Constitution (One Hundred and Fourteenth Amendment) Bill, 2010 seeks to achieve the aforesaid objectives.

NEW DELHI;
The 13th August, 2010.

M. VEERAPPA MOILY

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend clause (1) of article 217 of the Constitution of India to provide for increase in the age of retirement of Judges of the High Courts from the existing sixty-two years to sixty-five years.

2. Clause 3 of the Bill seeks to amend clause (3) of article 224 of the Constitution to provide for increase in the age of retirement of additional Judges or acting Judges of High Courts from the existing sixty-two years to sixty-five years.

3. The proposal does not involve any financial implications as their continuation of three more years in the office would not affect any increase in their salaries and allowances.

4. The Bill does not involve any expenditure of either recurring or non-recurring nature from the Consolidated Fund of India.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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Appointment and conditions of the office of a Judge of a High Court.

217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-two years:

Provided that—

(a) a Judge may, by writing under his hand addressed to the President, resign his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

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Appointment of additional and acting Judges.

224. (1) * * * * *
(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty-two years.

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further to amend the Constitution of India.

(Shri M. Veerappa Moily, Minister of Law and Justice)