

Constitution of India Art 124 - Establishment and constitution of Supreme Court

(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal on the recommendation of the National Judicial Appointments Commission referred to in article 124A and shall hold office until he attains the age of sixty-five years:

Provided that—

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

(b) a Judge may be removed from his office in the manner provided in clause (4).

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist.

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**Explanation I.—In this clause High Court” means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.**

**Explanation II.—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.**

**(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.**

**(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).**

**(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.**

**(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.**

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SYNOPSIS

NOTE = Effect of Supreme Court Advocates-on-Record Assn. v Union of India, (2016) 5 SCC 1. Article 124 ought to now read as:

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Constitutionality of the Constitution (Ninety-ninth Amendment) Act, 2014: Constitution (Ninety-ninth Amendment) Act, 2014 declared Unconstitutional, Supreme Court Advocates-on-Record Assn. v Union of India, (2016) 5 SCC 1.

Appointment of judges: Initiations of the proposal for appointment in the case of Supreme Court must be by Chief Justice of India and in case of a High Court by the Chief Justice of that High Court. In the event of conflicting opinion by the Constitutional functionaries, the opinion of the judiciary symbolised by the view the Chief Justice of India has primacy, Supreme Court Advocates-on-Record Ass. V. Union of India, (1993) 4 SCC 441. See also Special Reference No. 1 of 1998, In re, (1998) 7 SCC 739.

Role of Supreme Court: Role of Supreme Court has always been of a law-maker and travels beyond merely dispute-settling, Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409.

Supreme Court has power to interpret law and in the process remove any lacunae, fill the gaps in the legislation and even lay down a law with reference to the dispute before it but it cannot declare a new law of general application in the manner the

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legislative performs, P. Ramachandra Rao v. State of Karnataka,  
(2002) 4 SCC 578.

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