

FEDERAL DRAFT
FOR DISCUSSION PURPOSES ONLY
AMENDING FORMULA

General formula
for amending
the Constitution
of Canada

1. (1) Amendments to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the legislative assemblies of at least a majority of the provinces that include

- (a) every province that at any time before the issue of such proclamation had, according to any previous general census, a population of at least 25 per cent of the population of Canada;
- (b) at least two of the Atlantic provinces; and
- (c) at least two of the Western provinces that have, according to the then latest general census, combined populations of at least 50 per cent of the population of all the Western provinces.

Amendment of
paragraph 1(1)(c)

(2) Notwithstanding paragraph (1)(c), when the legislative assembly of each Western province has, either before or after the coming into force of this Part, by resolution so authorized, that paragraph shall read as follows:

"(c) at least two of the Western provinces."

Amendment of
provisions
relating to
some but not
all provinces

2. (1) Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the provinces, including any such amendments relating to the ownership of natural resources and provincial boundaries, may be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

amendment of
subsection 2(1)

(2) An amendment to subsection (1) may be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and by the legislative assemblies of all of the provinces.

amendments
without
Senate
resolution

3. An amendment may be made by proclamation under section 1 without a resolution of the Senate authorizing the issue of the proclamation if, within 90 days of the passage by the House of Commons of a resolution authorizing its issue, the Senate has not passed such a resolution and at any time after the expiration of those 90 days the House of Commons again passes the resolution, but any period when Parliament is prorogued or dissolved shall not be counted in computing those 90 days.

amendment
without
resolution
of legislative
assembly

4. (1) An amendment may be made by proclamation under section 1 without a resolution of the legislative assembly authorizing the issue of the proclamation if, within one year of the passage by the Senate and House of Commons of resolutions authorizing its issue or the second passage of such a resolution by the House of Commons under section 3, the legislative assembly of the province has not passed such a resolution and if, at any time after the expiration of that period, a referendum has been held in the province and a majority of electors voting thereat has approved the making of the amendment.

where
provincial
referendum
required

(2) Where the legislative assembly of a province has not passed a resolution referred to in subsection (1) before the expiration of the year referred to in that subsection, a referendum respecting the proposed amendment shall be held in the province if, within the immediately following year, a number of persons qualified to vote at a general election

in the province equal to three per cent of the number of persons qualified to vote at the immediately preceding provincial general election request in writing that a referendum be held.

amendment
without
resolution of
parliament

5. (1) An amendment may be made by proclamation under section 1 without resolutions of the Senate and House of Commons authorizing the issue of the proclamation if, within one year of the passage of resolutions authorizing the issue of the proclamations by the legislative assemblies of the number of provinces necessary to enable it to be issued, the Senate and House of Commons have not passed such a resolution or the House of Commons has not passed such a resolution a second time under section 3, and if, at any time after the expiration of that period, a referendum has been held throughout Canada and a majority of electors voting thereat has approved the making of the amendment.

where national
referendum
required

(2) Where the Senate and House of Commons have not passed resolutions referred to in subsection (1) before the expiration of the year referred to in that subsection, a referendum respecting the proposed amendment shall be held throughout Canada if, within the immediately following year, a number of persons qualified to vote at a general election in Canada equal to three per cent of the number of persons qualified to vote at the immediately preceding general election in Canada request in writing that a referendum be held.

rules for
referenda

6. Parliament may make laws respecting the rules applicable to the holding of referenda under section 4 or 5.

rules
applicable to
amendment
procedures

7. The following rules apply to the procedures for amendment described in sections 1 and 2:

(a) either procedure may be initiated by the Senate or House of Commons or by the legislative assembly of a province; and

(b) a resolution made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

Amendments by
Parliament

8. The Parliament of Canada may exclusively make laws amending the Constitution of Canada, in relation to the executive government of Canada or the Senate or House of Commons.

Amendments by
provincial
legislatures

9. In each province, the legislature may exclusively make laws in relation to the amendment from time to time of the constitution of the province.

Matters
requiring
amendment
under
general
formula

10. Notwithstanding sections 8 and 9, amendments to the Constitution of Canada in relation to the following matters may be made only in accordance with the procedure described in section 1:

- (a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;
- (b) the requirements of the Constitution of Canada respecting yearly sessions of the Parliament of Canada and the legislatures of the provinces;
- (c) the maximum period fixed by the Constitution of Canada for the duration of the House of Commons and the legislative assemblies of the provinces;
- (d) the powers of the Senate;
- (e) the number of members by which a province is entitled to be represented in the Senate, and the residence qualifications of Senators;
- (f) the right of a province to a number of members of the House of Commons not less than the number of Senators representing the province;
- (g) the principles of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada; and
- (h) the requirements respecting the use of the English or French language.

limitation on
use of
general
amending
formula

11. The procedure prescribed in section 1 may not be used to make an amendment when there is another provision for making such amendment in the Constitution of Canada, but that procedure may none the less be used to amend any provision for amending the Constitution, including this section but excepting section 2, or in making a general consolidation and revision of the Constitution.

12. In this Part,

Atlantic
provinces"

"Atlantic provinces" means the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland; and

Western
provinces"

"Western provinces" means the provinces of Manitoba, British Columbia, Saskatchewan and Alberta.