

# APPENDIX I

## *The Andhra Pradesh General Clauses Act 1891*

(ACT NO 1 OF 1891)

[3 April 1891; 14 May 1891]

An Act for further shortening the language used in [certain Acts of the State of Andhra Pradesh] and for other purposes.

WHEREAS it is expedient to further shorten the language used in [certain Acts of the State of Andhra Pradesh] and to make certain further provisions relating to those Acts; It is hereby enacted as follows:

**1. Short Title and Commencement**—(a) This Act may be called the <sup>1</sup>(Andhra Pradesh) General Clauses Act 1891; and

(b) It shall come into force on the 1 January 1892.

**2. Saving Clause**—Notwithstanding anything contained in the <sup>2</sup>Andhra Pradesh (Andhra Area) General Clauses Act 1867, the provisions of that Act shall not apply to this Act or to any <sup>3</sup>(Act of the State of Andhra Pradesh) which may be passed subsequent to the commencement of this Act.

### Chapter I

#### DEFINITIONS

**3. Definitions**—In this Act and in every (Act of the State of Andhra Pradesh) made after the commencement of this Act, unless there be something repugnant in the subject or context:

- (1) 'Abet', with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code.

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1 Substituted by First Schedule to AP Act 9 of 1961.

2 For Statement of Objects and Reasons see *Fort St George Gazette* supplement, dated 3 March 1891, p 5. For Report of the Select Committee, *ibid*, dated 10th *idem*, p 1, for proceedings in Council, *ibid*, dtd 10th *idem*, p 2 and *ibid*, dated 7 April 1891, p 1.

3 Substituted by Second Schedule to AP Act 9 of 1961.

- 4(1a) 'Andhra area' shall mean the territories of the State of Andhra Pradesh, which immediately before the 1 November 1956 were comprised in the State of Andhra Pradesh.
- (1b) 'Act of the State of Andhra Pradesh' shall mean—
- (i) an Act made by the governor of Fort St George in Council under the Indian Councils Acts 1861 to 1909 or any of those Acts or the Government of India Act 1915 or by the Local Legislature or the Governor of the Presidency of Madras under the Government of India Act, or by the Provincial Legislature of Madras under the Government of India Act 1935, or by the Legislature of the State of Madras under the Constitution immediately before the 1 October 1953;
  - (ii) an Act made by the Legislature of the State of Andhra;
  - (iii) an Act made by the Legislature of the State of Andhra Pradesh;
  - (iv) a Central Act of local application in force immediately before 1 November 1956 in the Andhra area;
  - (v) a regulation of the Madras Code in force immediately before the 1 November 1956 in the Andhra area.
- (2) 'Barrister'—'Barrister' shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland.
- (3)<sup>5</sup> \*\*\*
- (4) 'Chapter', 'Part', 'Section' and 'Schedule'—'Chapter', 'part', 'section' and 'schedule' shall mean respectively a chapter, part and section of, and schedule to, the Act in which the word occurs.
- (5)<sup>6</sup> \*\*\*
- (6) 'Collector'—'Collector' shall include every officer who, for the time being is authorised to exercise the powers of a collector.

Section 3(6): The definition of the word 'Collector' does not apply to Regulation 5 of 1928 or Act 2 of 1864. The meaning of the word 'Collector' is not governed by the Madras General Clauses Act.<sup>7</sup>

- (7) 'Commencement'—'Commencement', used with reference to an Act, shall mean the time at which the Act comes into force.
- (8) 'District Collector'—'District Collector' shall mean the chief local officer-in-charge of the revenue administration of a district.

#### Comments

A notification issued by the Joint Collector under s 4(1) of Land Acquisition Act is bad in law as it is only the District Collector as defined in s 3(8) of the Andhra Pradesh General Clauses Act who has the power to issue a notification.<sup>8</sup>

4 Inserted by Second Schedule to AP Act 9 of 1961.

5 Omitted by the Adaptation of Laws Order of 1937.

6 Omitted by the Second Schedule to AP Act 9 of 1961.

7 *Chintada Chittayya v Secretary of State* ILR 55 Mad 453, AIR 1932 Mad 377, 62 MLI 592.

8 *M Ram Chandra Rao v Collector, Karim Nagar* (1982) 2 APLJ 335-36, (1983) 1 An WR 100.



- (9) 'Document'—'Document' shall mean any matter expressed or described upon any substance by means of letters, figures or marks, used or which may be used as evidence of that matter.
- (10) 'Financial years'—'Financial year' shall mean the year commencing on the 1 April.
- (11) 'Good faith'—'Nothing is said to be done or believed in good faith which is done or believed to be done without due care and attention.
- <sup>9</sup>(12) \*\*\*
- <sup>10</sup>(13) \*\*\*
- (14) 'Immovable property'—'Immovable property' shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.
- (15) 'Imprisonment'—'Imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code.
- <sup>11</sup>(15a) \*\*\*
- (16) 'Judicial proceeding'—'Judicial proceeding' shall mean any proceeding in the course of which evidence is, or may be legally taken.
- (17) 'Local authority'—'Local authority' shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the government with, the Control or management of a municipal or local fund.
- <sup>12</sup>(17A) \*\*\*
- (18) 'Magistrate'—'Magistrate' shall mean any person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure 1882.<sup>13</sup>
- (19) 'Movable property'—'Movable property' shall mean property of every description except immovable property.
- (20) 'Oath, Swear and affidavit'—'Oath, Swear and affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.
- (21) 'Offence'—'Offence' shall mean any act or omission made punishable by any law for the time being in force.
- (22) 'Person'—'Person' shall include any company or association of individuals, whether incorporated or not.
- (23) 'Place'—'Place' includes also a house, building, tent and vessel.
- <sup>14</sup>(24) \*\*\*
- <sup>15</sup>(25) \*\*\*
- (26) 'Public'—'Public' includes any class of the public or of any community.
- (27) 'Public nuisance'—'Public nuisance' shall have the meaning assigned to that expression in s 268 of the Indian Penal Code.

9 Omitted by the Adaptation of Laws Order of 1937.

10 Omitted by the Adaptation of Laws (Amendment) Order of 1950.

11 Omitted by the Adaptation of Laws Order of 1937.

12 Omitted by the Second Schedule to AP Act 9 of 1961.

13 See now the Criminal Procedure Code 1973, Central Act 2 of 1974.

14 Omitted by the Adaptation of Laws Order of 1937.

15 Omitted by the Second Schedule to AP Act 9 of 1961.

- <sup>16</sup>(28) 'Registered'—'Registered' used with reference to a document, shall mean a registered in India<sup>17</sup> under the law for the time being in force for the registration of documents.
- (29) 'Sign'—'Sign' with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions.

#### Comments

Under the District Municipalities Act, a warrant must bear the signature of the Chairman. Signature must be taken in its accepted sense. The fact, in s 2(20), CPC that sign is used as including stamp, has no bearing on the District Municipalities Act; but if the chairman happens to be illiterate, he may, under s 3(29) of the Madras General Clauses Act, affix his mark.<sup>18</sup>

- (30) 'Son' and 'Father' in the case of any one whose personal law permits adoption, 'son' shall include an adopted son, and 'father' an adoptive father.
- <sup>19</sup>(30-a) 'State': State shall mean—
- (i) the whole of the State of Andhra Pradesh in the case of an Act which extends to the whole of the said State; and
  - (ii) the Andhra area in the case of an Act which extends only to that area.
- (31) 'Sub-section'—'Sub-section' shall mean a sub-section of the section in which the word occurs.
- (32) 'Value'—'Value' used with reference to a suit, shall mean the amount or value of the subject-matter of the suit, computed according to the law for the time being in force regulating the valuation of the suits for purposes of jurisdiction.
- (33) 'Will'—'Will' shall include a codicil and every writing making a voluntary posthumous distribution of property.
- (34) 'Gender'—Words importing the masculine gender shall include females.
- (35) 'Number'—Words in the singular shall include the plural and words in the plural shall include in the singular.
- (36) 'Illegal omissions'—Words which refer to acts done extend also to illegal omissions.
- (37) 'Writing'—'Writing' with its grammatical variations and cognate expressions shall include 'printing', 'lithography', 'photography' with their grammatical variations and cognate expressions, and other modes of representing or reproducing words in a visible form.
- (38) 'Year and Month'—'Year and Month' shall, respectively, mean a year and month reckoned according to the British calendar.

<sup>20</sup>3-A\*\*\*

16 Substituted by the Adaptation of Laws (Amendment) Order of 1950.

17 Substituted for 'a Part A State' or 'a Part C State' by the Adaptation of Laws (Amendment) Order of 1950.

18 *Re Madar Sahib* (1930) ILR Mad 430, 58 MLJ 193.

19 Inserted by the Second Schedule to AP Act 9 of 1961.

20 Omitted by Second Schedule to AP Act 9 of 1961.

## Chapter II

**GENERAL PROVISIONS APPLICABLE TO FUTURE ACTS**

**4. Applications of Chapter II to All Future Acts**—This Chapter shall apply to all <sup>21</sup>[Acts of the State of Andhra Pradesh] made after the commencement of this Act unless a contrary intention appears in such Acts.

**225. Commencement of Future Acts**—<sup>23</sup>(1) Where any Act to which this Chapter applies is not expressed to come into operation on a particular day, then, it shall come into operation on the day on which the assent thereto of the governor, the governor-general or the President, as the case may require, is first published in the *Official Gazette*.

(2) In every such Act the date of such publication as aforesaid shall be printed either above or below, the title of the Act and shall form part of the Act.

**6. Making of Rules and Issue of Orders Between Passing and Commencement of Act**—Where, by an Act to which this Chapter applies and which is not to come into force immediately on the passing thereof, a power is conferred on government or other authority to make rules or to issue orders, with respect to the application of the Act or with respect to the appointment of any officer thereunder, such power may be exercised at any time after the passing of the Act but rules or orders so made or issued shall not take effect till the commencement of the Act.

**7. Provisions Regulating the Making of Rules After Previous Publication**—Where, by an Act to which this Chapter applies, a power to make rules is expressed to be given, subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely:

- (a) Publication of draft rules—The authority having the power to make the rules shall, before making them, publish a draft of the proposed rules.
- (b) Manner of publication—The publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the <sup>24</sup>[Central Government] or, as the case may be, the <sup>25</sup>[state government] prescribes.
- (c) Notice to accompany draft rules—There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.
- (d) Consideration of suggestion in regard to draft rules—The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may

21 Substituted by Second Schedule to AP Act 9 of 1961.

22 Substituted by the Adaptation Order of 1937.

23 Substituted by the Adaptation (Amendment) Order of 1950.

24 Substituted by the Adaptation Order of 1937.

25 Substituted by the Adaptation Order of 1950.



be received by the authority having power to make the rules from any person with respect to the draft, before the date so specified.

- (e) Publication to be proof of due making of rules—The publication in the *Official Gazette* of a rule purporting to have been made in exercise of a power to make rules after previous publication, shall be conclusive proof that the rule has been duly made.

#### Comments

By virtue of s 6 of the Madras General Clauses Act, rules can be made ready for being brought into force on a future date.<sup>26</sup>

Section 7(c) and (e): The draft rules under the Madras General Sales Tax (Turnover and Assessment) Rules 1939, are not invalid because they were not made after previous publication for four weeks under s 19(4) of the Act<sup>27</sup>

**8. Effect of Repealing an Act**—Where any Act to which this Chapter applies, repeals any other enactment, then the repeal shall not:

- (a) affect anything done or any offence committed, or any fine or penalty incurred or any proceedings begun before the commencement of the repealing Act; or
- (b) revive anything not in force or existing at the time at which the repeal takes effect; or
- (c) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (d) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (e) affect any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (f) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such fine, penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

#### Comments

Under s 8, the repeal cannot in any way affect the offence already committed by him or his liability for such an offence in the absence of anything in the amending Act to show that the repeal and the substitution are to be retrospective.<sup>28</sup>

Scope and applicability of s 8 of the AP General Clauses Act have been discussed in the undernoted case.<sup>29</sup>

**308-A. Effect of Repeal Making Textual Amendment on Previous Act**—Where any Act to which this Chapter applies, repeals any enactment by which the text of

<sup>26</sup> *Rangaswami Chettiar & Co v Madras Government* AIR 1957 Mad 301, (1957) 1 MLJ 28.

<sup>27</sup> *Sreeramulu Chetty v State* AIR 1958 AP 354, (1958) 1 Andh WR 268 (FB), (1937) 1 MLJ 281, AIR 1957 Mad 301.

<sup>28</sup> *State of Kerala v P Krishnan* AIR 1958 Ker 55, ILR 1957 Ker 873.

<sup>29</sup> *State of Andhra Pradesh v Ramaswami* (1958) 2 Andh WR 79, (1957) 2 MLJ 185.

<sup>30</sup> Inserted by the Madras General Clauses (Amendment) Act (4 of 1937).



any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.

#### Comments

Repeal of an Act shall not effect any proceedings begun before the commencement of the repealing Act unless the contrary intention appears from the repealing Act.<sup>31</sup>

**9. Revival of Repealed Enactments**—In any Act to which this Chapter applies—

- (a) For the purpose of reviving, either wholly or partially, an Act or Regulation, wholly or partially repealed, it shall be necessary expressly to state such purpose;
- (b) Commencement of term—For the purpose of excluding the first in a series of days or any of other period of time, it shall be sufficient to use the word 'from';
- (c) Termination of term—For the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word 'to';
- (d) Application to subordinates of law relative to official superiors—For the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;
- (e) Application of law to successors of functionaries and corporations—For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and
- (f) Application of law to persons for the time being filling an office—For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

**10. Expressions Used in Rules, Bye-laws and Orders to have Same Meaning as in Act Under Which They are Made or Issued**—Where an Act to which this Chapter applies, confers power to make rules or bye-laws or to issue orders, expressions used in such rules, bye-laws or orders have the same respective meanings as in the Act conferring the powers.

**11. Necessary Extension of Prescribed Periods**—Where, by an Act to which this Chapter applies, any act or proceedings is directed or allowed to be done or taken in a court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act

31 *Madali Narsimharao v Neerla Rangaiah* (1975) 1 AP LJ 41, 44.

or proceedings shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open.

This section does not apply to any act or proceeding to which the Indian Limitation Act 1908, applies.

### Chapter III

## GENERAL PROVISIONS APPLICABLE TO ALL ACTS

**12. Application of Chapter III to All Acts**—This Chapter shall apply to all<sup>32</sup>[Acts of the State of Andhra Pradesh] unless a contrary intention appears in any such Act, but it shall not affect anything done or commenced prior to the commencement of this Act under any enactment now in force.

**13. When Powers and Duties to be Exercised and Performed**—Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed, from time to time, as occasion requires.

#### Comments

The power conferred by s 43 of the Madras District Municipalities Act on the government to divide the municipality into wards, to determine wards in which seats shall be set apart and declare for whom such seats shall be reserved, is not exhausted by exercising it once. If owing to supervening circumstances, the government thinks that a modification is necessary and exercises such power once again, it is perfectly legal and s 13 confers such power.<sup>33</sup>

**14. Exercise of Powers and Performance of Duty by Temporary Holder of Office**—Where an Act confers a power or imposes a duty on the holder of an office, as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

**15. Revocation and Alteration of Rules, Bye-laws and Orders**—Where an Act confers a power to make any rules or bye-laws or to issue orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, bye-laws or orders.

**16. Duty Leviable 'pro rata'**—Whenever by an Act any duty of customs or excise or in the nature thereof is leviable on any given quantity, by weight, measure or value, of any goods or merchandise, a like duty shall be leviable according to the same rate on any greater or less quantity.

**17. Mode of Conferring Powers and Imposing Duties**—Whenever by an Act, authority is given to confer powers or impose duties, such powers may be conferred or duties imposed by name or by office or on classes of officials generally by their official titles.

**18. References to Provisions in Acts Repealed and Re-enacted**—Where an Act repeals, and re-enacts, with or without modification, all or any of the provisions

32 Substituted by the Second Schedule to AP Act 9 of 1961.

33 *J Venkateswara Rao v State* AIR 1958 AP 458, (1958) 1 AP WR 337.



of a former Act, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted, and if notifications have been published, proclamations or certificates issued, powers conferred, forms prescribed, local limits defined, offices established, orders, rules and appointments made, engagements entered into; licences or permits granted, and other things duly done under the provisions so repealed, the same shall be deemed, so far as the same are consistent with the provisions so re-enacted, to have been respectively published, issued, conferred, prescribed, defined, established, made, entered into, granted or done under the provisions so re-enacted.

#### Comments

Section 18 read with s 23 of the Andhra Pradesh General Clauses Act provides that the notification issued under an ordinance shall be deemed to be notification issued under the Act repealing and re-enacting the provisions of the Ordinance if the same is consistent with the provisions of the Act.<sup>34</sup>

**19. Recovery of Fines**—The provisions of ss 63 and 68–70 of the Indian Penal Code, shall apply to all fines imposed under the authority of any Act.

**20. Punishment for Offences Under More Than One Enactment**—Where an Act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same act or omission.

**21. Publication of Orders and Notifications in the *Official Gazette***—Where in any Act, in any rule passed under any Act, it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the *Official Gazette*.<sup>35</sup>

**22. Determination of the Times at Which Acts or Provisions of Acts Extended or Applied by Government to Certain Places shall Come into Force**—When, by an Act<sup>36</sup>[any government] is empowered to extend or apply an Act or any provision of an Act to any portion of the<sup>37</sup>[State], the government may in any order extending or applying such Act or provision or in a subsequent order, notify the time at which the same shall come into force in the place or portion of the<sup>38</sup>[State] to which it is so extended or applied; and, unless it is otherwise provided in the Act,<sup>39</sup>[the Government] may, by notification in the<sup>40</sup>[*Official Gazette*] from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the<sup>41</sup>[State] or cancel the order for extending or applying the same to such place or portion of the<sup>42</sup>[State].

34 *Hanumantha Rao v State of Andhra Pradesh* 1976 (1) AP LJ 37 (40).

35 Inserted by the Adaptation Order of 1937.

36 Substituted by the Adaptation of Laws Order of 1937.

37 Substituted by the Adaptation (Amendment) Order of 1950.

38 *Murlidhar v State of Andhra Pradesh* AIR 1959 AP 457, (1959) 2 AP WR 377.

39 Substituted by the Adaptation (Amendment) Order of 1950.

40 Substituted by the Adaptation of Laws Order of 1937.

41 *Murlidhar v State of Andhra Pradesh* AIR 1959 AP 437, (1959) 2 AP WR 377.

42 Ibid.

*Proviso*—Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the <sup>43</sup>[State] to which such order relates.

#### Comments

It is only matters legislative in nature, that have to be published. It is axiomatic that every statute or rules having statutory force ought to be brought to the notice of the people by publication as they are expected to obey the laws. However, the same cannot be said with regard to executive or administrative directions unless there is any statutory obligation.<sup>44</sup>

A combined reading of s 28 of the Madras Civil Courts Act as amended and s 21 of the Madras General Clauses Act makes it clear that the date of publication of notification in the *Gazette* is the date when the notification shall be deemed to be duly made, for publication in the *Official Gazette* which is a pre-condition for its taking effect.<sup>45</sup>

#### <sup>46</sup>Chapter IV

### APPLICATION TO ORDINANCES AND REGULATIONS

<sup>47</sup>[23. Application of Act to Regulations and Ordinances—The provisions of this Act shall apply—

- (a) in relation to any regulation made by the governor under s 92 of the Government of India Act 1935, in like manner as they apply in relation to <sup>48</sup>[Acts made by the Provincial Legislature referred to in Item (1) of cl 1(b) of s 3]; and
- (b) in relation to any Ordinance promulgated by the Governor under art 213 of the Constitution or any regulation made by him under paragraph five of the Fifth Schedule to the Constitution, in like manner as they apply in relation to (the Acts) made by the state legislature:

Provided that sub-s (1) of s 5 of this Act shall apply to any ordinance referred to in cl (b) as if the reference in that subsection to the day of the first publication of the assent to an Act in the *Official Gazette* were a reference instead to the day of the first publication of the Ordinance in the *Gazette*.]

43 Substituted by the Adaptation (Amendment) Order of 1950.

44 *Murlidhar v State of Andhra Pradesh* AIR 1959 AP 437, (1959) 2 AP WR 377.

45 *Siddireni Srinivasa Rao v Allu Veeramma* (1958) 1 Andh WR 377, AIR 1958 AP 424.

46 Inserted by the Adaptation Order of 1937.

47 Substituted by Second Schedule to AP Act 9 of 1961.

48 Substituted by the Adaptation (Amendment) Order of 1950.



# APPENDIX II

## <sup>1</sup>*The Andhra Pradesh (Telangana) General Clauses Act 1308 F*

(ACT NO 3 OF 1308F)

(28 Isfandar 1308 F)

### PREAMBLE

WHEREAS it is expedient to have brevity in the text used in the laws made by the Legislative Council <sup>2</sup>[Telangana area of the State of Andhra Pradesh] and to make certain provisions for the construction and application thereof;

It is hereby enacted as follows:

### PRELIMINARY

**1. Short Title, Extent and Commencement**—This Act may be called <sup>3</sup>[the Andhra Pradesh (Telangana Area) General Clauses Act 1308 F] and shall come into force at once in <sup>4</sup>[the whole of the Telangana area of the State of Andhra Pradesh].

**<sup>5</sup>[1-A. Application of Act]**—This Act shall apply to every Hyderabad law as defined in cl (1A) of s 2].

1 Received the assent of HE the Madarul Moham on 4 Isfandar 1308 Fasli, published in the *Official Gazette*, dated 28 Isfandar 1308 F.

2 The words 'Hyderabad area of the State of Andhra Pradesh' were substituted for the words '*Mumalik-i-Mahroosa-i-Sarkar-Aali*' by the APAO 1957 and these words were substituted for the words 'Hyderabad area of the State of Andhra Pradesh' by AP Act 9 of 1961.

3 Substituted for the original short title by AP Act 9 of 1961.

4 The words 'the whole of the Hyderabad area of the State of Andhra Pradesh' were substituted for the words '*Tamam Mumalik-Mahroosa-Sarkar-i-Aali*' by the APAO 1957 and the words 'Telangana area of the State of Andhra Pradesh' were substituted for the words 'Hyderabad area of the State of Andhra Pradesh' by AP Act 9 of 1961.

5 Inserted by the APAO 1957.

## GENERAL DEFINITIONS

2. Definition—<sup>6</sup>[in this Act and in all Hyderabad laws as defined in cl (1A), unless there is anything repugnant in the subject or context—

- (1) Constitution: 'Constitution' means the Constitution of India;
- (1A) Hyderabad law: 'Hyderabad law' means—
  - (i) an Act of the legislature established for the pre-Reorganisation Hyderabad State by the Constitution, including an Act made under art 385 thereof;
  - (ii) an Act made before the commencement of the Constitution by the Legislative Council or the Legislative Assembly in existence in the pre-Reorganisation Hyderabad state at the time of making of the Act;
  - (iii) a regulation including an 'A' in made by HEH the Nizam before the 18 September 1948; and
  - (iv) a regulation made by HEH the Nizam, the military governor or the chief minister of the pre-reorganisation Hyderabad state on or after the said date but before the commencement of the Constitution.

*Explanation*—In this Act and in all Hyderabad laws whose authoritative text is in Urdu, the Urdu expression '*Qanoon*' shall be deemed to have the meaning assigned to 'Hyderabad law' in the clause].

- (2) The word 'Part' when used with respect to any Act shall mean a part of the Act in which the word is used;
- (3) The word 'Chapter' when used with respect to any Act shall mean a Chapter of the Act in which the word is used;
- (4) The word 'section' when used with respect to any Act shall mean a section of the Act in which the word is used;
- (5) The word 'sub-section' when used with respect to any section shall mean a sub-section of the section in which the word is used;
- (6) The word 'Schedule' shall mean a schedule to the Act in which the word is used;
- <sup>7</sup>(7) (i) Pre-reorganisation Hyderabad State: 'Pre-reorganisation Hyderabad State' shall mean—
  - (a) as respect any period before the commencement of the Constitution, the territory comprised in the Indian State of Hyderabad;
  - (b) as respects any period after the commencement of the Constitution, the territories of the State of Hyderabad a specified in part B of the First Schedule to the Constitution before the commencement of the State Reorganisation Act 1956 (Central Act 37 of 1956).

6 Substituted for the entire portion from the beginning of the section to the end of cl (1) by *ibid*.

7 Substituted for cl (7) by the AP AO 1957.

*Explanation*—(i) In all Hyderabad laws whose authoritative text is in Urdu, any reference in Urdu to '*Mumalik-i-Mahroosa-i-Sarkar-i-Aali*' (HEH the *Nizami's* Dominions) and in all Hyderabad laws whose authoritative text is in English, any reference to 'the Hyderabad State' or 'the State of Hyderabad shall be deemed to be references to the pre-reorganisation Hyderabad State;

(ii) Telangana area of the State of Andhra Pradesh <sup>8</sup>['Telangana area of the State of Andhra Pradesh'] means the territories transferred from the pre-Reorganisation Hyderabad State to the State of Andhra Pradesh under s 3 of the States Reorganisation Act 1956 (Central Act 37 of 1956).

<sup>9</sup>(7A) The word '*Balda*' shall mean the city of Hyderabad and shall also include suburbs;

(8) The word 'District' shall also extend to the city and suburbs; <sup>10</sup>[\* \* \*] and the Board of Revenue, or any authority whom the <sup>11</sup>[government!] may appoint shall exercise the powers of a District <sup>12</sup>[Collector] for the city and suburbs;

<sup>13</sup>(9) 'Government' means the state government as defined in cl (60) of s 3 of the General Clauses Act 1978.

*Explanation*—In all Hyderabad laws whose authoritative text is in Urdu, any reference in Urdu to '*Sarkar-i-Aali*' shall be deemed to be a reference to government;

(10) 'Principal Revenue Department' shall mean the Board of Revenue, or the department vested with powers of the Board of Revenue in reference to which the words 'Principal Revenue Department' are used;

(11) The words 'Local Authority' shall mean a municipal committee, local fund committee, or such other committee which may be entitled to expend and control any local income according to law;

<sup>14</sup>(12) 'Collector' means the chief officer-in-charge of the revenue administration of a district;

*Explanation*—In all Hyderabad laws any reference to '*Talukdar*' or '*Awal Talukdar* (first *Talukdar*)' shall be deemed to be references of the Collector;

(13) 'District Court' shall mean the principal court of original jurisdiction in a district;

8 Substituted for the words 'Hyderabad area of the State of Andhra Pradesh' by AP Act 9 of 1961.

9 As amended by Act 6 of 1310F.

10 The words 'as well as to the *Amaldari of Sirpur-Tendur*' were omitted by the AP AO 1957.

11 Substituted for the word '*Sarkar-i-Aali*' by *ibid*.

12 Substituted for the word '*Talukdar*' by *ibid*.

13 Substituted for cl (9) by *ibid*.

14 Substituted for cl (12) by *ibid*.



- <sup>15</sup>(14) 'Magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure 1898 (Central Act 5 of 1898) for the time being in force;
- (15) '*Official Gazette*' means the *Government Gazette* which is published under the orders of the government;

*Explanation*—In all Hyderabad laws, for the time being in force, any references to  
 • '*Jarida*,' '*Jarida Alamia*' or '*Jarida, Alamia Sarkar-i-Aali*' shall be deemed to be reference to the *Official Gazette*;

- (16) The word 'Notification' shall mean a notification published in the<sup>16</sup> (*Official Gazette*) by a lawful order;
- <sup>17</sup>(16A) The word 'Order' shall mean an order given by a government servant in exercise of any power vested in him by law;
- (17) the word 'Rule' shall mean a rule made in accordance with the power conferred by any law;
- <sup>18</sup>(17A) the words 'government servant' shall include every person who receives a monthly pay or remuneration from the government or who receives any wage for government work, or who does any government work without wages;

*Explanation 1*—Railway employees, members and servants of municipal committees shall also be considered as government servants;

*Explanation 2*—Wherever the expression 'government servant' occurs, it applies to every person who is virtually holding the office of a government servant, whatever defect there might be in his right to hold that post:

- (17B) the words 'act of a government servant' shall mean an act which he may do in the official capacity;
- (18) the words 'order of a government servant' shall mean only the order made by a government servant in the exercise of his official powers virtually vested in him or which he believes in good faith to vest in him and has not been cancelled by any other order;
- (19) the word 'power' means a legal power;
- <sup>19</sup>(19A) The word 'property' shall extend to both immovable and movable property;
- (20) The words 'immovable property' shall include land, rights of benefits arising out of land and all things attached to the earth, or permanently fastened to anything attached to the earth so long as it is thus attached or fastened;

15 Substituted for cll (14) and (15) by the AP AO 1957.

16 Substituted for the '*Jarida*' by the AP AO 1957.

17 As amended by s 2 of the Act No 6 of 1310F.

18 As amended by Act No 6 of 1310F.

19 As amended by Act No 1 of 1953 published in the *Gazette, Extraordinary* No 47, dated 1 April 1953.



- (21) The word 'movable property' shall mean property of every description other than immovable property;
- <sup>20</sup>(21A) The word 'goods' shall not extend to immovable property;
- <sup>21</sup>(22) 'Rupee' means a rupee in IG currency and fractional denominations of a rupee shall be construed accordingly;
- (23) The word 'writing' and the expressions including the word 'writing' shall include impression of every kind and every mode by which words are represented on any material substance;
- (24) The word 'signature' and the expression including the word 'signature' shall, when used with respect to any person who is unable to write his name, include the mark of his seal or any other 'mark';
- (25) The word 'document' shall include any matter recorded in writing by such means as are intended to be used, or which may be used, for the purpose of recording that matter;
- <sup>22</sup>(25A) The words 'valuable security' shall mean a document which is or purports to be a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released or whereby any person acknowledges that he is legally liable or that a certain legal right does not belong to him;
- <sup>23</sup>(25B) The word 'bond' shall also include a document whereby a person promised to another to make payment of money on condition that, if a particular act is done or a particular act is not done, the said promise shall become void;
- (26) The word 'will' shall include a codicil and every writing having a mention of a voluntary posthumous transfer or disposition of any property;
- <sup>24</sup>[(26A) The word 'Registered' used with reference to a document, shall mean in relation to any period before the 1 November 1956, registered in the pre-reorganisation Hyderabad state, and in relation to any period commencing on or after that day, registered in the area to which this Act extends;]
- (27) The word 'oath' shall include affirmation and every declaration of the person by law allowed to affirm or declare instead of swearing;
- <sup>25</sup>(28) The word 'affidavit' means the statement made in writing and certified by oath before an officer of a court or other authority;
- (29) The word 'act' when used with respect to an offence or wrong for which a suit for damages can be instituted shall include a series of acts; and words which refer to acts done shall also extend to illegal omissions;
- (30) The word 'offence' shall mean any act or omission made punishable under any law by a criminal court;

20 As amended by Act No 6 of 1310F.

21 As amended by Act No 1 of 1953 published in the *Gazette, Extraordinary* No 47, dated 1 April 1953.

22 As amended by Act No 6 of 1310F.

23 Substituted for cl (26A) by the APAO 1957.

24 Ibid.

25 As amended by Act No 6 of 1310F.

- (31) The word 'abet' and its derivatives shall be used in the same meaning as in the <sup>26</sup>[Indian Penal Code 1860 (Central Act 45 of 1860)];
- (32) The word 'illegal' applies to everything which is an offence or which is prohibited by law, or which forms a ground for a civil action;
- (33) The words 'legally bound to do' may be used in respect of a person when its omission by him is illegal;
- (34) The word 'injury' means every kind of damage Illegally caused to any person in body, mind, reputation or goods;
- (35) The words 'public nuisance' shall mean a public nuisance as defined in the <sup>27</sup>[Indian Penal Code 1860 (Central Act 45 of 1860)].
- (36) An act shall be deemed to be done in good faith also in the case where it is in fact done in good faith even though it is done negligently;
- (37) The word 'Imprisonment' shall include both rigorous imprisonment and simple imprisonment;
- <sup>28</sup>(38) The word 'financial year, month and year' shall have the meaning respectively assigned to them in cl (21), (35) and (66) of s 3 of the General Clauses Act 1897 (Central Act 10 of 1897);
- <sup>29</sup>(39) [\*\*\*]
- (40) The words 'importing' the singular number shall also extend to the plural number;
- (41) The words 'importing' the masculine gender shall also extend to the feminine gender;
- (42) The word 'public' extends to every community of public or class of people;
- (43) The word 'person' shall include any company or association or body of persons, whether incorporated or not;
- (43A) The word 'minor' means a person, the eighteenth year of whose age has not been completed;
- (44) The word 'father' shall include every such person in whose personal law adoption is permitted and who has adopted;
- (45) The word 'son' shall include every such person in whose personal law adoption is permitted and who has been adopted;
- <sup>30</sup>(45A) The word 'cattle' shall include elephant, camel, bullock, buffalo, horse, pony, mule, ass, pig, ram and goat;
- (46) The word 'vessel' shall include every ship or boat or other description of vessels which may be used in navigation;
- <sup>31</sup>[2A. \*\*\*].

### 3. Application of Acts: Extent—Unless a different intention appears—

- <sup>32</sup>[(1) Every Act shall extend to<sup>33</sup>[the whole of the area to which this Act extends];

<sup>26</sup> Substituted for the expression 'Hyderabad Penal Code' by the AP AO 1957.

<sup>27</sup> Substituted for the expression 'Hyderabad Penal Code' by the AP AO 1957.

<sup>28</sup> Substituted for cl (38) by the AP AO 1957.

<sup>29</sup> Clause (39) was omitted by the AP AO 1957.

<sup>30</sup> As amended by Act No 6 of 1310F.

<sup>31</sup> Section 2A was omitted by the AP AO 1957.

<sup>32</sup> As amended by Act No 6 of 1310F.

<sup>33</sup> Substituted for the words '*Tamam Mumalik-i-Mahroosa-i-Sarkar-i-Aal*' by *ibid.*

- (2) Coming into operation of Acts: Every Act shall come into operation after one month from the date of publication thereof in the <sup>34</sup>[*Official Gazette*];
- (3) Repeal: When an Act comes into operation all those enactments and parts of enactments shall be repealed the subject of which has been merely repeated in, or is absolutely contradictory to that act;
- (4) Repeal shall not revive enactment: By a repeal of any Act the enactments and orders which might have been repealed thereby shall not come into operation;
- (5) Effect of repeal: A repeal of any Act shall not affect—
  - (a) the previous operation of any repealed enactment or anything established by that enactment or duly done; or
  - (b) any right, privilege, obligation or liability accrued or incurred under any repealed enactment; or
  - (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any repealed enactment; or
  - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy shall be Instituted, continued or enforced, and any such penalty, forfeiture or punishment shall be so imposed as if the enactment had not been repealed.

**4. Construction of References to Repealed Enactments**—Where any provision of an Act is repealed and it is re-enacted in the repealing Act without any change in the objective, the references in any other enactment or instrument in respect of the provision so repealed shall, unless a different intention appears, be the reference in respect of the provision so re-enacted.

**5. Commencement and Termination of Time**—(1) If any period of <sup>35</sup>[time] is mentioned, the day from which it is stated to commence, shall not be included in the time but the day up to which it is stated to last shall be included therein.

(2) If any amount or quantity is mentioned, it shall include the highest limit expressed therein.

**6. Computation of Time**—Where, by any Act, an act or proceeding is done or allowed in any court or office on a certain date or within a prescribed period then, if the said court or office is closed on that date or on the last day of the prescribed period, the act or proceeding shall be considered as done or taken on the due date or in due time if it is done on the <sup>36</sup>(day) on which the said court or office is open.

**7. Measurement of Distances**—Measurement of a distance for the purposes of any Act shall, unless a different intention appears, be made in a straight line on a plane.

34 Subs for the word '*Jarida*' by AP AO 1957.

35 As amended by Act 6 of 1310F.

36 The words '*Karogiri Ya*' (customs or) were omitted by the AP AO 1957.



**8. Duty to be Taken 'pro rata' in Enactment**—Where, by any Act, any duty of <sup>37</sup>(\*\*\*\*\*) excise or in the nature thereof is leviable on a certain quantity, by weight, measure or value, of grains or merchandise, then a like duty shall, unless a different intention appears, be leviable at the same rate in proportion to the quantity.

#### POWERS AND FUNCTIONARIES

**9. Powers Conferred Shall be Exercisable From Time to Time**—Where, by any Act, any power is conferred, that power may be exercised from time to time as occasion requires.

**10. Power to Appoint Includes Power to Appoint *ex officio***—Where, by any Act, a power to confer any authority or to make an appointment to fill any office, or execute any function is conferred, then unless it is otherwise expressly provided, such authority may be given, or such appointment may be made, either by name or by virtue of office; and every such authority or appointment shall take effect from the date on which intimation thereof reaches the person appointed and, where the appointment is made by notification in the <sup>38</sup>[*Official Gazette*] from the date of its publication in the <sup>39</sup>[*Official Gazette*].

<sup>40</sup>*Explanation*—The power to confer authority includes the power to cancel or modify authority conferred.

**11. Exercise of Powers in Case of Transfer From One Office to Another**—When any government servant is invested with powers within an area or land and is transferred to any other office of a like nature either equal to or higher than the office aforesaid, then unless it is otherwise directed the said person may exercise the same powers in the area of land to which he is transferred.

**12. Power to Appoint Includes Power to Suspend or Dismiss**—Where, by any Act, a power to make any appointment is conferred on any officer, then, unless it is otherwise expressly provided, he shall also have power to suspend or dismiss any person appointed in exercise of that power.

**13. Substitution of Functionaries**—In any Act it shall be sufficient, for the purpose of indicating that a law relates to every person or persons for the time being exercising the powers in an office, to mention the designation of the officer at the time or generally exercising the said powers.

**14. Successors**—The law which applies to any officer shall also apply to the successors of that officer and such of his deputies and subordinates as may be lawfully discharging the duties of that officer.

#### PROVISIONS AS TO ORDERS AND RULES MADE UNDER ENACTMENTS

**15. Power to Make Rules, etc, Includes Power to Add, Vary or Rescind Them**—Where, by any Act, a power to make orders, rules or forms is conferred, then, such power shall be exercised in accordance with the provisions of that Act, and the rules

37 Ibid.

38 Substituted for the words '*Jarida*' by the AP AO 1957.

39 Ibid.

40 As amended by the Act No 6 of 1310F.



made shall be published in the <sup>41</sup>[*Official Gazette*] and on the application shall have the force of law, and the aforesaid powers shall also include the power to add, to vary or rescind the orders, rules or forms made thereunder in such manner and subject to such restrictions and conditions as may be laid down in that Act.

**16. Making and Issuing of Rules, etc, Between Passing and Enforcement of Enactments**—Where, by any Act, which is not to come into operation immediately on the passing thereof, a power is conferred to make rules or to issue orders with respect to the application of the relevant Act, or with respect to the appointment of any judge or officer, or with respect to the establishment of a court or officer, or with respect to the person by whom or the time when or the place where or the manner in which or the fees for which anything is to be done under the Act then, that power may be exercised at any time after the passing of the Act; but rules or orders so made and issued shall not take effect till the commencement of the Act.

**17. Provisions to Make Rules, etc, After Previous Publication**—Where, by any Act, a power to make rules is given subject to the condition of the rules being made after previous publication, then unless a contrary intention appears, the following provisions shall apply:

- (1) the authority having power to make the rules shall, before finally making them, publish a draft of the proposed rules in the *Official Gazette*;
- (2) there shall be published with the draft a notification for a date after which the draft will be taken into consideration; and that date shall not be within one month from the date of publication of the notification;
- (3) the authority having power to make the rules, and where the rules are to be made with the sanction, approval or concurrence of another authority, that another authority also, shall consider any objections and opinions which may be received by the authority having power to make the rules from any person with respect to the draft before that date fixed, but no person shall be allowed to make an objection to the effect that a certain objection or opinion has not been considered.

**18. Constructions of Orders, etc, Issued Under Enactments**—Where, by any Act, a power to Issue orders, rules or forms is conferred, then expressions in such orders, rules or forms shall, unless there is anything repugnant in the subject or context, be taken to have the same meanings as in this Act.

**19. Continuation of Rules, etc, Issued Under Enactments Repealed**—Where, any Act is repealed and is enforced as a new Act with or without modification, then, unless it is otherwise expressly provided, any order, rule or form Issued under the repealed Act shall, so far as it is not inconsistent with the provisions of the new Act, continue in force, and be deemed to have been Issued thereunder, unless and until it is repealed by any order, rule, form or procedure issued under the new Act.

<sup>41</sup> Substituted for the word '*Jarida*' by the AP AO 1957.

## MISCELLANEOUS

**20. Recovery of Fines**—The provisions of the <sup>42</sup>[Indian Penal Code 1860 (Central Act 45 of 1860)] and the <sup>43</sup>[Code of Criminal Procedure 1898 (Central Act 5 of 1898)] relating to fines shall apply to all fines imposed under any Act or rule, unless the Act or rule contains an express provision to the contrary.

**21. Provision as to Offences Punishable Under Two or More Enactments**—Where an act is an offence under two or more Acts, the offender shall be liable to be punished under any of those Acts, but shall not be liable to be punished separately under the two Acts for the same offence.

**22. Citation of Enactments**—(1) Where any Act is to be cited, it may be cited with its short title or its number and year.

(2) When a certain provision of an Act is cited, it may be cited by reference to the section and sub-section in which the provision is contained.

(3) Where any portion of an Act is cited, the citation shall, unless a contrary intention appears, be deemed to include the words in the beginning and end of that portion.

**23. Appeal Against Orders of Punishment**—Appeal against orders of punishment passed by the court or departmentally shall unless it is otherwise provided lie to the department immediately superior to the department imposing the punishment.

42 Substituted for the words 'Hyderabad Penal Code' by the APAO 1957.

43 Subs for words 'Code of Criminal Procedure' by Ibid.

## APPENDIX III

### *The Andhra Pradesh (Telangana Area) General Clauses Amendment And Supplementary) Act 1950<sup>1</sup>*

(ACT NO 18 OF 1950)

(15 May 1950)

WHEREAS it is expedient to determine the extent of application of Act 3 of 1308 F<sup>2</sup>[the Andhra Pradesh (Telangana Area) General Clauses Act 1308F] and to make special provision for the construction of certain Hyderabad laws. It is hereby enacted as follows:

**1. Short Title and Commencement**—(1) This Act may be called <sup>3</sup>[the Andhra Pradesh (Telangana Area) General Clauses (Amendment and Supplementary Act 1950)].

(2) It shall come into force at once.

**2. Definitions**—In this Act, unless there is anything repugnant in the subject or context—

- (a) 'Constitution' means the Constitution of India;
- (b) 'Hyderabad Act' means—
  - (i) an Act of the legislature established for <sup>4</sup>[the pre-reorganisation Hyderabad state] by the Constitution, including an Act made under <sup>5</sup>[art 385] thereof; and
  - (ii) an Act made before the commencement of the Constitution by the Legislative Council or the Legislative Assembly in existence in <sup>6</sup>[the pre-Reorganisation Hyderabad State] at the time of the making of the Act;

1 Received the assent of HEH the Nizam on 2 May 1950 and published in the *Official Gazette*, dated 15 May 1950.

2 Substituted for the original short title by AP Act 9 of 1961.

3 Ibid.

4 Substituted for the words 'the Hyderabad state' by the AP AO 1957.

5 Substituted for 'art 212A' by *ibid.* •

6 Substituted for the words 'the Hyderabad State' by the AP AO 1957.



- (c) 'Hyderabad Regulation' means—
- (i) a regulation including an 'A' in, made by HEH the *Nizam* before the 8 September 1948, and
  - (ii) a regulation made by HEH the *Nizam*, the Military Governor or the Chief Minister on or after the said date but before the commencement of the Constitution.

**3. Application of Andhra Pradesh (Telangana Area) General Clauses Act—**Save as provided in s 4, the provisions of <sup>7</sup>[the Andhra Pradesh (Telangana Area) General Clauses Act 1308F (Act 3 of 1308F)] as respects the construction of Acts and orders, rules and forms made thereunder shall apply, and be deemed always to have been applied, in respect of the construction of all Hyderabad Acts and Hyderabad Regulations and of orders, rules and forms made thereunder.

**4. Rules of Constructions Applicable to Certain Enactments—**In all Hyderabad Acts of the description mentioned in sub-cl (i) of cl (b) of s 2 and in all Hyderabad Regulations of the description mentioned in sub-cl (ii) of cl (c) of s 2, unless there is anything repugnant in the subject or context:

- (a) 'Government' or 'the government' means the state government as defined in cl (60) of s 3 of the General Clauses Act 1897 (India Act 10 of 1897);
- (b) 'financial year', 'month', and 'year' have the meaning respectively assigned to them in cl (21), (35) and (66) of the said s 3.

**5. Amendment and Repeal—**Section 24 of <sup>8</sup>[the Andhra Pradesh (Telangana Area) General Clauses Act 1308F (Act 3 of 1308F)] shall be omitted and the Hyderabad General Clauses Act (Amendment) Regulation 1358F (19 of 1358F) shall be repealed.

<sup>7</sup> Substituted for the original short title by AP Act 9 of 1961.

<sup>8</sup> Ibid.

# APPENDIX IV

## *The Hyderabad General Clauses Act 1308 F<sup>1</sup>*

(HYDERABAD ACT NO 3 OF 1308F) BY VIRTUE OF ORDER 2(D) OF ANDHRA PRADESH  
ADAPTATION OF LAWS ORDER 1957

*(Received the assent of HE the Madarul Moham on 14 Isfandar 1308 Fasli.)*

### PREAMBLE

WHEREAS it is expedient to have brevity in the text used in the laws made by the Legislative Council in HH the *Nizam's* Dominions, and to make certain provisions for the construction and application thereof; it is hereby enacted as follows:

### PRELIMINARY

1. **Short Title, Extent and Commencement**—This Act may be called 'The General Clauses Act' and shall come into force at once in the Hyderabad area.

### GENERAL DEFINITIONS

2. **Definitions**—In this Act and in all Hyderabad laws as defined in cl (1A) unless there is anything repugnant in the subject or context—

- (1) 'Constitution' means the Constitution of India;
- (1a) 'Hyderabad Law' means—
  - (i) an Act of the Legislature established for the Pre-reorganisation Hyderabad state by the Constitution, including an Act made under art 385 thereof;
  - (ii) an Act made before the commencement of the Constitution by the Legislative Council or the Legislative Assembly in existence in the Pre-reorganisation Hyderabad state at the time of making of the Act;
  - (iii) a Regulation including an 'A' in made by HEH the *Nizam* before the 18 September 1948; and
  - (iv) a Regulation made by the HEH. The *Nizam*, the military governor or the chief minister of the Pre-reorganisation Hyderabad state

<sup>1</sup> Published in the *Farida*, dated 28 *Isfandar* 1308F.

on or after the said date but before, the commencement of the Constitution;

*Explanation*—In this Act and in all Hyderabad laws whose authoritative text is in Urdu, the Urdu expression '*Qanoon*' shall be deemed to have the meaning assigned to 'Hyderabad law' in this clause;

- (2) the word 'Part' when used with respect to any Act shall mean a part of the Act in which the word is used;
- (3) the word 'Chapter' when used with respect to any Act shall mean a Chapter of the Act in which the word is used;
- (4) the word 'section' when used with respect to any Act shall mean a section of the Act in which the word is used;
- (5) the word 'sub-section' when used with respect to any section shall mean a sub-section of the section in which the word is used;
- (6) the word 'schedule' shall mean a Schedule to the Act in which the word is used;
- <sup>2</sup>(7) 'Pre-reorganisation Hyderabad state' shall mean:
  - (a) as respects any period before the commencement of the Constitution, the territory comprised in the Indian State of Hyderabad;
  - (b) as respects any period after the commencement of the Constitution, the territories of the State of Hyderabad as specified in Pt B of the First Schedule to the Constitution before the commencement of the State Re-organisation Act 1956 (Central Act 37 of 1956);

*Explanation*—In all Hyderabad laws whose authoritative text is in Urdu, and reference in Urdu to '*Mumalik-i-Mahroosa-i-Sarkar-i-Aali*' (HEH the *Nizam's* Dominions), and in all Hyderabad laws whose authoritative text is in English, any reference to 'the Hyderabad state' or 'the State of Hyderabad', shall be deemed to be references to the Pre-reorganisation Hyderabad state;

- <sup>3</sup>(7A) the word '*Balda*' shall mean the city of Hyderabad and shall also include suburbs;
- (8) the word 'District' shall also extend to the city and suburbs; and the Board of Revenue, or any authority whom the government may appoint shall exercise the powers of a District <sup>4</sup>(Collector) for the city and suburbs;
- <sup>5</sup>(9) 'Government' means the state government as defined in cl (60) of s 3 of the General Clauses Act 1897 (Central Act 10 of 1897);

<sup>2</sup> Substituted by AO 1956.

<sup>3</sup> As amended by Act No 6 of 1310F.

<sup>4</sup> Substituted by AO 1956.

<sup>5</sup> Ibid.



*Explanation*—In all Hyderabad laws whose authoritative text is in Urdu, any reference in Urdu to 'Sarkar-i-Aali' shall be deemed to be a reference to government;

- (10) 'Principal Revenue Department' shall mean the Board of Revenue, or the department vested with powers of the Board of Revenue, in reference to which the words 'Principal Revenue Department' are used;
- <sup>6</sup>(10A) 'Commissioner' shall mean the Commissioner of a division appointed under the Hyderabad Land Revenue Act (No 8 of 1317F);
- (11) The words 'Local Authority' shall mean a municipal Committee, local fund committee, or such other committee which may be entitled to expend and control any local income according to law;
- <sup>7</sup>(12) 'Collector' means the Chief Officer-in-charge of the revenue administration of a district;

*Explanation*—In all Hyderabad laws any reference to 'Talukdar' or 'Awwal Talukdar' (first Talukdar) shall be deemed to be references to the collector.

- (13) 'District Court' shall mean the principal court of original jurisdiction in a district;
- <sup>8</sup>(14) 'Magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure 1898 (Central Act 5 of 1898), for the time being in force;
- (15) 'Official Gazette' means the Government Gazette which is published under the order of the government;

*Explanation*—In all Hyderabad laws for the time being in force, any references to 'Jarida,' 'Jarida Alamiya' or 'Jarida Alamiya Sarkar-i-Aali' shall be deemed to be references to the *Official Gazette*.

- (16) the word 'Notification' shall mean a notification published in the <sup>9</sup>(*Official Gazette*) by a lawful order;
- <sup>10</sup>(16A) the word 'Order' shall mean an order given by a government servant in exercise of any power vested in him by law;
- (17) the word 'rule' shall mean a rule made in accordance with the power conferred by any law;
- <sup>11</sup>(17A) the words 'Government servant' shall include every person who receives a monthly pay or remuneration from the government,<sup>12</sup> or who receives any wages for government work, or who does any government work without wages;

6 Added by Bombay Act 8 of 1958.

<sup>7</sup> Substituted by AO 1956.

8 Ibid.

9 Ibid.

10 As amended by Act No 6 of 1310F.

11 As amended by Act No 15 of 1329F.

12 Ibid.

*Explanation 1*—Railway employees, members and servants of municipal committees shall also be considered as government servants.

*Explanation 2*—Wherever the expression 'Government Servant' occurs, it applies to every person who is virtually holding the office of a government servant, whatever defect there might be in his right to hold that post.

- <sup>13</sup>(17B) the words 'act of a government servant' shall mean an act which he may do in the official capacity;
- (18) the words 'order of a government servant' shall mean only the order made by a government servant in the exercise of his official powers virtually vested in him or which he believes in good faith to vest in him and has not been cancelled by any other order;
- (19) the word 'power' means a legal power;
- <sup>14</sup>(19A) the word 'property' shall extend to both immovable and movable;
- (20) the words 'immovable property' shall include land, rights of benefits arising out of land and all things attached to the earth, or permanently fastened to anything attached to the earth so long as it is thus attached or fastened;
- (21) the words 'movable property' shall mean property of every description other than immovable property;
- <sup>15</sup>(21A) the word 'goods' shall not extend to immovable property;
- <sup>16</sup>(22) 'rupee' means a rupee in IG currency and fractional denominations of a rupee shall be construed accordingly;
- (23) the word 'writing' and the expressions including the word 'writing' shall include impression of every kind and every mode by which words are represented on any material substance;
- (24) the word 'signature' and the expressions including the word 'signature' shall, when used with respect to any person who is unable to write his name, include the mark of his seal, or any other 'mark';
- (25) the word 'document' shall include any matter recorded in writing by such means as are intended to be used, or which may be used, for the purpose of recording that matter;
- <sup>17</sup>(25A) the words 'valuable security' shall mean a document which is or purports to be a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released or hereby any person acknowledges that he is legally liable or that a certain legal right does not belong to him;
- <sup>18</sup>(25B) the word 'Bond' shall also include a document, whereby a person promised to another to make payment of money on condition that if particular act is done or a particular act is not done, the said promise shall become void;

13 As amended by Act 6 of 1310F.

14 As amended by Act No 6 of 1310F.

15 Ibid.

16 As amended by Act No 1 of 1953; published in the *Gazette of India, Extraordinary* No 47, dtd 1 April 1953.

17 As amended by Act No 6 of 1310F.

18 Ibid.

- (26) the word 'will' shall include a codicil and every writing having a mention of a voluntary posthumous transfer or disposition of any property;
- <sup>19</sup>(26A) 'registered', used with reference to a document shall mean, in relation to any period before the 1 November 1956, registered in the Pre-reorganisation Hyderabad State, and in relation to any period commencing on or after that day, registered in the area to which this Act extends;
- (27) the word 'oath' shall include affirmation and every declaration of the person by law allowed to affirm or declare instead of swearing;
- <sup>20</sup>(28) the word 'affidavit' means the statement made in writing and certified by oath before an officer of a court or other authority;
- (29) the word 'act' when used with respect to an offence or wrong for which a suit for damages can be instituted, shall include a series of acts; and words which refer to acts done shall also extend to illegal omissions;
- (30) the word 'offence' shall mean any act or omission made punishable under any law by a criminal court;
- <sup>21</sup>(31) the word 'abet' and its derivatives shall be used in the same meaning as in the Indian Penal Code 1860 (Central Act 45 of 1860);
- (32) the word 'illegal' applies to everything which is an offence or which is prohibited by law, or which forms a ground for a civil action;
- (33) the words 'legally bound to do' may be used in respect of a person when its omission by him is illegal;
- (34) the word 'injury' means every kind of damage illegally caused to any person in body, mind, reputation or goods;
- (35) the words 'public nuisance' shall mean a public nuisance as defined in the <sup>22</sup>Indian Penal Code 1860 (Central Act 45 of 1860);
- (36) an act shall be deemed 'to be done in good faith' also in the case where it is in fact done in good faith even though it is done negligently;
- (37) the word 'imprisonment' shall include both rigorous imprisonment and simple imprisonment;
- <sup>23</sup>(38) 'Financial year', 'month' and 'year' shall have the meaning respectively assigned to them in cll (21), (35) and (66) of s 3 of the General Clauses Act 1897 (Central Act 10 of 1897);
- <sup>24</sup>(39) [\*\*\*];
- (40) the words importing the singular number shall also extend to the plural number;
- (41) the words importing the masculine gender shall also extend to the feminine gender;
- (42) the word 'public' extends to every community of public or class of people;

19 Substituted by AO 1956.

20 As amended by Act No 6 of 1310E.

21 Substituted by AO 1956.

22 Substituted by AO 1956.

23 Ibid.

24 Clause (39) omitted by AO 1956.



- (43) the word 'person' shall include any company or association or body of persons, whether incorporated or not;
- <sup>25</sup>(43A) the word 'minor' means a person, the eighteenth year of whose age has not been completed;
- (44) the word 'father' shall include every such person in whose personal law adoption is permitted and who has adopted;
- (45) the word 'son' shall include every such person in whose personal law adoption is permitted and who has been adopted;
- <sup>26</sup>(45A) the word 'cattle' shall include elephant, camel, bullock, buffalo, horse, pony, mule, ass, pig, ram and goat;
- (46) the word 'vessel' shall include every ship or boat, or other description of vessels which may be used in navigation.

Table of Analogous Provisions

<i>Sub-section of Hyd Act, section 2</i>	<i>Sub-section of Bombay Act, section 3</i>	<i>Sub-section of Hyd Act, section 2</i>	<i>Sub-section of Bombay Act, section 3</i>
(2)	(34)	(27)	(32)
(3)	(9)	(29)	(2)
(4)	(42)	(30)	(33)
(6)	(40)	(31)	(1)
(10A)	(13)	(35)	(36)
(11)	(26)	(38)	(19), (30), (51)
(12)	(11)	(43)	(35)
(14)	(28)	(44)	(18)
(17)	(39)	(45)	(45)
(20)	(24)	(46)	(48)
(21)	(31)		
(23)	(50)		
(25)	(16)		
(26)	(49)		
(26A)	(37)		

2-A. <sup>27</sup>[\*\*\*\*\*]

### APPLICATION OF ACTS

3. Extent—Unless a different intention appears—

- (1) Every Act shall extend to the whole of <sup>28</sup>[the area to which this Act extends].

<sup>25</sup> As amended by Act 6 of 1310F.

<sup>26</sup> Ibid.

<sup>27</sup> Section 2A omitted by AO 1956.

<sup>28</sup> Substituted by AO 1956.

- (2) Coming into operation of Acts: every Act shall come into operation after one month from the date of publication thereof in the <sup>29</sup>[*Official Gazette*].
- (3) Repeal: when an Act comes into operation all those enactments and parts of enactments shall be repealed, the subject of which has been merely repeated in, or is absolutely contradictory to that Act.
- (4) Repeal shall not revive enactment: by a repeal of any Act the enactments and orders which might have been repealed thereby shall not come into operation.
- (5) Effect of repeal: a repeal of any Act shall not affect—
  - (a) the previous operation of any repealed enactment or anything established by that enactment or duly done; or
  - (b) any right, privilege, obligation or liability accrued or incurred under any repealed enactment; or
  - (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any repealed enactment; or
  - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy shall be instituted, continued or enforced, and any such penalty, forfeiture or punishment shall be so imposed as if the enactment had not been repealed.

**4. Construction of References to Repealed Enactments**—Where any provision of an Act is repealed and it is re-enacted in the repealing Act without any change in the objective, the references in any other enactment or instrument in respect of the provision so repealed shall (unless a different intention appears) be the reference in respect of the provision so re-enacted.

**5. Commencement and Termination of Time**—(1) If any period of <sup>30</sup>[time] is mentioned the day from which it is stated to commence shall not be included in the time but the day up to which it is stated to last shall be included therein.

(2) If any amount or quantity is mentioned, it shall include the highest limit expressed therein.

**6. Computation of Time**—Where, by any act, an act or proceeding is done, or allowed in any court or office on a certain date or within a prescribed period, then, if the said court or office is closed on that date or on the last day of the prescribed period, the act or proceeding shall be considered as done or taken on the due date or in due time if it is done on the <sup>31</sup>[day] on which the said court or office is open.

**7. Measurement of Distances**—Measurement of a distance for the purposes of any act shall, unless a different intention appears, be made in a straight line on a plane.

<sup>29</sup> Ibid.

<sup>30</sup> As amended by Act 6 of 1310F.

<sup>31</sup> Ibid.

to Duty to be Taken 'pro rata' in Enactment—Where, by any act, any duty<sup>32</sup> [\*\*\*] excise or in the nature thereof is leviable on a certain quantity by weight, measure or value of grains or merchandise, then a like duty shall, unless a different intention appears, be leviable at the same rate in proportion to the quantity.

### POWERS AND FUNCTIONARIES

9. Powers Conferred Shall be Exercisable from Time to Time—Where, by any Act, any power is conferred, that power may be exercised from time to time as occasion requires.

10. Power to Appoint Includes Power to Appoint 'ex officio'—Where by any Act, a power to confer any authority or to make an appointment to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, such authority may be given, or such appointment may be made, either by name or by virtue of office; and every such authority or appointment shall take effect from the date on which intimation thereof reaches the person appointed and, where the appointment is made by notification in the<sup>33</sup> [Official Gazette] from the date of its publication in the<sup>34</sup> [Official Gazette].

<sup>35</sup>[Explanation—The power to confer authority includes the power to cancel or modify authority conferred],

11. Exercise of Powers in Case of Transfer from One Office to Another—When any government servant is invested with powers within an area of land, and is transferred to any other office of a like nature either equal to, or higher than the office aforesaid then unless it is otherwise directed, the said person may exercise the same powers in the area of land to which he is transferred.

12. Power to Appoint Includes Power to Suspend or Dismiss—Where, by any Act, a power to make any appointment is conferred on any officer, then, unless it is otherwise expressly provided, he shall also have power to suspend or dismiss any person appointed in exercise of that power.

13. Substitution of Functionaries—In any Act, it shall be sufficient for the purpose of indicating that a law relates to every person or persons for the time being exercising the powers in an office, to mention the designation of the officer at the time or generally exercising' the said powers.

14. Successors—The law which applies to any officer shall also apply to the successors of that officer and such of his deputies and subordinates as may be lawfully discharging the duties of that officer.

Provisions as to Orders and Rules made under Enactments.

15. Power to Make Rules, etc, Includes Power to Add, Vary or Rescind Them—Where, by any Act, a power to make orders, rules or forms is conferred, then, such power shall be exercised in accordance with the provisions of that Act, and the

32 The words 'customs or' omitted by AO 1956.

33 Substituted by AO 1956.

34 Ibid.

35 As amended by Act 6 of 1310E.



rules made shall be published in the <sup>36</sup>[*Official Gazette*] and, on the publication, shall have the force of law; and the aforesaid powers shall also include the power to add, to vary or rescind the orders, rules or forms made thereunder in such manner and subject to such restrictions and conditions as may be laid down in that Act.

**16. Making and Issuing of Rules, etc, Between Passing and Enforcement of Enactments**—Where, by any Act, which is not to come into operation immediately on the passing thereof, a power is conferred to make rules or to issue orders with respect to the application of the relevant Act, or with respect to the appointment of any Judge or officer or with respect to the establishment of a court or officer, or with respect to the person by whom or the time when, or the place where, or the manner in which, or the fees for which anything is to be done under the Act, then, that power may be exercised at any time after the passing of the Act; but rules or orders so made and issued shall not take effect till the commencement of the Act.

**17. Provisions to Make Rules, etc, After Previous Publication**—Where, by any Act, a power to make rules is given subject to the condition of the rules being made after previous publication, then, unless a contrary intention appears, the following provisions shall apply,—

- (1) The authority having power to make the rules shall, before finally making them, publish a draft of the proposed rules in the <sup>37</sup>[*Official Gazette*].
- (2) There shall be published with the draft a notification for a date after which the draft will be taken into consideration; and that date shall not be within one month from the date of publication of the notification.
- (3) The authority having power to make the rules, and where the rules are to be made with the sanction, approval or concurrence of another authority, that another authority also, shall consider any objections and opinions which may be received by the authority having power to make the rules from any person with respect to the draft before that date fixed; but no person shall be allowed to make an objection to the effect that a certain objection of opinion has not been considered.

**18. Construction of Orders, etc, Issued under Enactments**—Where, by any Act, a power to issue orders, rules or forms is conferred, then expression in such orders, rules or forms shall, unless there is anything repugnant in the subject or context, be taken to have the same meanings as in the Act.

**19. Continuation of Rules, etc, Issued under Enactments Repealed**—Where any Act is repealed and is enforced as a new Act with or without modification, then, unless it is otherwise expressly provided, any order, rule or form issued under the repealed Act shall, so far as it is not inconsistent with the provisions of the new Act, continue in force and be deemed to have been issued thereunder, unless and until it is repealed by any order, rule, form or procedure issued under the new Act.

36 The words 'customs or' omitted by AO 1956.

37 Substituted by AO 1956.

## MISCELLANEOUS

**20. Recovery of Fines**—The provisions of the <sup>38</sup>Indian Penal Code 1860 (Central Act 45 of 1860) and the Code of Criminal Procedure 1898 (Central Act 5 of 1898), relating to fines shall apply to all fines imposed under any Act or rule unless the Act or rule contains an express provision to the contrary.<sup>39</sup>

**21. Provision as to Offences Punishable Under Two or More Enactments**—Where an Act is an offence under two or more Acts, the offender shall be liable to be punished under any of those Acts; but shall not be liable to be punished separately under the two Acts for the same offence.

**22. Citation of Enactments**—(1) Where any Act is to be cited, it may be cited with its short title or its number and year.

(2) When a certain provision of an Act is cited, it may be cited by reference to the section and sub-section in which the provision is contained.

(3) Where any portion of an Act is cited, the citation shall, unless a contrary intention appears, be deemed to include the words in the beginning and end of that portion.

**23. Appeal Against Orders of Punishment**—Appeal against orders of punishment passed by the court or department shall unless it is otherwise provided, lie to the department immediately superior to the department imposing the punishment.

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38 Ibid.

39 Ibid.

# APPENDIX V

## *The Assam General Clauses Act 1915<sup>1</sup>*

(ASSAM ACT NO 2 OF 1915)

An Act for shortening the language used in Assam Acts and for other purposes.

WHEREAS it is expedient to provide for the interpretation of Assam Acts for shortening the language used therein and for making certain other provisions relating to such Acts; it is hereby enacted as follows:

### PRELIMINARY

**1. Short Title and Commencement**—This Act may be called the Assam General Clauses Act 1915.

**2. Meaning of the Word 'Act'**—In this Act, the word 'Act' shall mean an Assam Act.

**3. Application of Act to Other Enactments**—The provisions of ss 4–31 shall apply to this Act, and shall apply, and shall be deemed always to have applied, to all Acts made whether before or after the commencement of this Act.

### DEFINITIONS

**4. Definitions**—In all Acts unless there is anything repugnant in the subject or context—

- (1) 'abet' with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code;
- (2) 'act' used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions;
- (3) 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

<sup>2</sup>[(4)\*\*\*];

1 Published in the *Assam Gazette* on the 19 January, 1916. For Statement of Objects and Reasons, see *Assam Gazette*, 1915, Pt 5, 8; for Report of Select Committee, *ibid*, 163; for Proceedings, *ibid*, 108 and 163.

2 Omitted by AO 1950.



- <sup>3</sup>[(5) 'Assam Act' shall mean an Act made by the chief commissioner of Assam in Council under the Indian Councils Acts 1861 to 1909 or any of those Acts, or under the Government of India Act 1915 or by the Local Legislature of Assam under the Government of India Act <sup>4</sup>(or by the Provincial Legislature or the Governor of Assam under the Government of India Act 1935), or by the Legislature of the State of Assam under the Constitution];
- (6) 'barrister' shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;
- <sup>5</sup>[(7) 'Bengal Act' shall mean an Act made by the Lieutenant Governor of Bengal in Council under the Indian Councils Act 1861, or the Indian Councils Acts 1861 and 1892, or the Indian Councils Acts 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the Indian Councils Acts 1861, 1892 and 1909 by the Local Legislature of Bengal under the Government of India Act];
- <sup>6</sup>[(8) \*\*\*];
- (9) 'British possession' shall mean any part of His Majesty's dominions, exclusive of the United Kingdom, and, where parts of those Dominions are under both a Central and a Local Legislature, all parts under the Central Legislature shall, for the purposes of this definitions; be deemed to be one British possession;
- (10) 'chapter' shall mean a chapter of the Act in which the word occurs;
- <sup>7</sup>(11) 'colony—
- (a) in any Assam Act passed after the commencement of Pt 3 of the Government of India Act 1935, shall mean any part of His Majesty's Dominions exclusive of the British Island, the Dominions of India and Pakistan (and before the establishment of those Dominions, British India), any Dominion as defined in the Statute of Westminster 1931, any province or State forming part of any of the said Dominions, and British Burma; and
- (b) In any Assam Act passed before the commencement of Pt 3 of the said Act, mean any part of His Majesty's Dominions exclusive of the British Island, and of British India: and in either case where parts of those Dominions are under both a Central and Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony'.
- (12) 'commencement' used with reference to an Act, shall mean the day on which the Act comes into force;
- (13) 'commissioner' shall mean the chief officer in charge of the revenue administration of a division;

3 Substituted by the AO 1937.

4 The words in brackets were added by the AO 1950.

5 Substituted by the AO 1950.

6 Omitted by the AO 1937.

7 Ibid.

- (14) 'consular officer' shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;
- (15) 'Deputy Commissioner' shall mean the chief officer in charge of the general administration of the district;
- (16) 'District Court' shall mean a principal civil court of original jurisdiction; but shall not include a High Court in the exercise of the ordinary or extraordinary original civil jurisdiction;
- (17) 'District Judge' shall mean the judge of a district court;
- (18) 'document' shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means which is intended to be used, or which may be used for the purpose of recording that matter;
- (19) 'Eastern Bengal and Assam' shall mean the territories which were under the administration of the Lieutenant-Governor of Eastern Bengal and Assam immediately prior to the Constitution of the Chief Commissionership of Assam in 1912;
- (20) 'Eastern Bengal and Assam Act' shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts 1861 to 1909;
- (21) 'enactment' shall include a regulation (as hereinafter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any enactment or in any such regulation as aforesaid;
- (22) 'father' in the case of anyone whose personal law permits adoption, shall include an adoptive father;
- (23) 'financial year' shall mean the year commencing on the 1 April;
- <sup>8</sup>[(24) \*\*\*];
- (25) a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not;
- (26) 'Government' or 'the Government' shall include the <sup>9</sup>[state government) as well as the <sup>10</sup>(Central Government);
- <sup>11</sup>[(27) \*\*\*];
- (28) 'High Court' shall mean the High Court of Judicature at Fort William in Bengal;
- <sup>12</sup>[(29) \*\*\*];
- (30) 'immovable property' shall include land benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth;
- (31) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code;

8 Omitted by the AO 1937.

9 The words 'state government' were substituted for 'Provincial Government' by the AO 1950 which has been substituted for 'Local Government' by the AO 1937.

10 Substituted for 'Government of India' by the AO 1937.

11 Omitted by the AO 1937.

12 Omitted by the AO 1950.

- <sup>13</sup>[(32) \*\*\*];
- (33) 'judicial proceedings' shall mean any proceeding in the course of which evidence is, or may be, legally taken;
- (34) 'local authority' shall mean a body of municipal or station commissioners, local board, or any other authority entrusted by the government with, or legally entitled to, the control or management of Municipal or local fund;
- (35) 'local Administration' shall mean the <sup>14</sup>[state government];
- <sup>15</sup>[(36) \*\*\*];
- (37) 'magistrate' shall include every person exercising all or any of the powers of Magistrate under the Code of Criminal Procedure for the time being in force;
- (38) 'master' used with reference to a ship shall mean any person (except a pilot or harbour master) having for the time being control or charge of the ship;
- (39) 'month' shall mean a month reckoned according to the British calendar;
- (40) 'movable property' shall mean property of every description except immovable property;
- (41) 'notification' shall mean a notification in the *Official Gazette*;
- (42) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (43) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (44) 'part' shall mean a part of the Act in which the word occurs;
- (45) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- <sup>16</sup>[(46) 'political agent' shall mean—
- (a) in relation to any territory outside India the Principal Officer by whatever name called, representing the Central Government in such territory; and
- (b) any officer appointed to exercise all or any of the powers of a Political Agent for any place not forming part of India under the law for the time being in force relating to the foreign jurisdiction];
- <sup>17</sup>[(47) \*\*\*];
- <sup>18</sup>[(48) \*\*\*];
- (49) 'public' includes any class of the public or any community;
- (50) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;
- (51) 'registered' used with reference to a document, shall mean registered in <sup>19</sup>[a Pt A state or a Pt C state] under the law for the time being in force for the registration of documents;

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13 Omitted by the AO 1937.

14 Substituted by the AO 1950.

15 Omitted by the AO 1937.

16 Ibid.

17 Omitted by the AO 1950.

18 Omitted by the AO 1937.

19 Substituted for the words 'British India' by the AO 1950.



- (52) 'regulation' shall mean a Regulation made by the governor under the Sixth Schedule to the Constitution or under the Government of India Act 1935, and shall include a regulation as defined in s 3(50) of the General Clauses Act 1897;
- (53) 'rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;
- (54) 'schedule' shall mean a Schedule to the Act in which the word occurs;
- (55) 'Scheduled District' shall mean a 'Scheduled District' as defined in the Scheduled Districts Act 1874;
- (56) 'section' shall mean a section of the Act in which the word occurs;
- (57) 'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (58) 'sign' with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions;
- (59) 'son' in the case of anyone whose personal law permits adoption, shall include an adopted son;
- (60) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (61) 'swear' with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons, by law allowed to affirm or declare instead of swearing;
- (62) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (63) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (64) expression referring to 'writing' shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and
- (65) 'year' shall mean a year reckoned according to the British calendar.

**5. <sup>20</sup>(1) Where any Assam Act is not expressed to come into operation on a particular day, then—**

- (i) in the case of an Assam Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the *Official Gazette*, and if it is an Act of the Governor on the day on which it is first published as an Act in the *Official Gazette*; and
- (ii) in the case of an Assam Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette*.

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20 Substituted by the AO 1950.

(2) Unless the contrary is expressed, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.]

**6. Effect of Repeal**—Where any Act repeals any enactment hitherto made, or hereafter to be made then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

**7. Revival of Repealed Enactments**—In any Act it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

**8. Construction of Reference to Repealed Enactments**—Where any Act repeals and re-enacts, with or without modification, any provision of a former enactment, references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

**9. Commencement and Termination of Time**—In any Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word 'from' and for the purpose of including the last in a series of days or any other period of time, to use the word 'to'.

**10. Computation of Time**—Where, by any Act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act 1908, applies.

**11. Measurement of Distances**—In the measurement of any distance, for the purpose of any Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

**12. Duty to be Taken 'Pro rata' in Enactment**—Where, by any Act, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or lesser quantity.

**13. Gender and Number**—In all Acts, unless there is anything repugnant in the subject or context—

- (1) words importing the masculine gender shall be taken to include females; and
- (2) words in the singular shall include the plural and vice versa.

<sup>21</sup>[14. \*\*\*\*\*]

**15. When Powers and Duties to be Exercised and Performed**—Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

**16. Exercise of Power and Performance of Duty by Temporary Holder of Office**—Where an Act confers a power or imposes a duty on the holder of an office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

**17. Power to Appoint to Include Power to Appoint *Ex-officio***—Where, by any Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

**18. Power to Appoint to Include Power to Suspend or Dismiss**—Where, by any Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise, of that power.

**19. Substitution of Functionaries**—In any Act, it shall be sufficient, for the purpose of indicating the application of law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the function, or that of the officer by whom the functions are commonly executed.

**20. Successors**—In any Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

**21. Official Chiefs and Subordinates**—In any Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

<sup>21</sup> Omitted by the AO 1950.



### PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS

**22. Construction of Orders, etc, Issued Under Enactments**—Where, by any Act, a power to make or issue any notification, order, scheme, rule, form or by-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law, shall unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

**23. Power to Make, to Include, Power to Add to, Amend, Vary or Rescind Orders, Rules or Bye laws**—Where, by any Act, a power to make or issue notification, orders, schemes, rules, forms or bye-laws is conferred, then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any) to add to, amend, vary or rescind any notifications, orders, schemes, rules, forms or bye-laws so made.

**24. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactment**—Where, by any Act, which is not to come into operation on (the passing thereof) a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or with respect to the establishment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which or the fees for which anything is to be done under the Act, then that power may be exercised at any time after <sup>22</sup>[the passing thereof], but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

**25. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication**—Where, by any Act, a power to make rules or bye-laws is expressed to be given, subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as the authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the government concerned prescribes;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
- (5) the publication in the *Gazette* of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

22 Substituted by AO 1937.

**26. Continuance of Orders, etc Issued Under Enactments Repealed and Re-enacted**—Where, any enactment is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided any appointment, notification, order, scheme, rule, form or bye-law, made or issued under the repealed enactment, shall so far as it is not inconsistent with the provisions re-enacted, continue in force and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted.

**27. Publication of Orders and Notifications in the *Official Gazette***—Where in any enactment or in rule made under any enactment it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the enactment otherwise provides, be deemed to be duly made if it is published in the <sup>23</sup>[*Official Gazette*].

#### MISCELLANEOUS

**28. Recovery of Fines**—Sections 63-70 of the Indian Penal Code and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to fines imposed under any Act or any rule or bye-law made under any Act unless the Act, rule or bye-law contains an express provision to the contrary.

**29. Provisions as to Offences Punishable Under Two or More Enactments**—Where an act or omission constitutes an offence under two or, more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments but shall not be liable to be punished twice for the same offence.

**30. Meaning of Service by Post**—Where any Act authorises or requires any document to be served by post, whether the expression 'serve' or either of the expression 'give' or 'send' or any other expression is used then unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

**31. Citation of Enactments**—(1) In any Act and in any rule, bye-law, instrument, or document, made under, or with reference to any such Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In any Act a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

**32. Saving of Previous Enactments, Rules and Bye-laws**—where any Act, rule or bye-law made after the commencement of this Act continues or amends any

23 Substituted for '*Gazette*' by the AO 1937.

Bengal Act <sup>24</sup>[\*\*\*] which is in force in Assam or any rule or bye-law made thereunder before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such a continuance of amendment affect the construction of such Bengal Act, <sup>25</sup>[\*\*\*] rule or bye-law.

<sup>26</sup>[33. Application of Act to Ordinances and Regulations—The provisions of this Act shall apply—

- (a) in relation to any ordinance promulgated by the governor under s 88 or s 89 of the Government of India Act 1935 as they apply in relation to Assam Acts made under the said Act by the Governor, and in relation to any regulation made by the governor under s 92 of the said Act as they apply in relation to Assam Acts made by the Provincial Legislature; and
- (b) in relation to any ordinance promulgated by the governor under art 213 of the Constitution or any regulation made by the Governor under the Sixth Schedule to the Constitution as they apply in relation to Assam Acts, made by the state legislature:

Provided that cl (ii) of sub-s (1) of s 5 of this Act shall apply to any Ordinance referred to in cl (b) as if for the reference in the said cl (ii) to the day of the first publication of the assent to an Act in the *Official Gazette* there were substituted a reference to the day of the first publication of the ordinance in that *Gazette*.]

24 The word 'or Eastern Bengal and Assam Act' were omitted by AO 1937.

25 Ibid.

26 Section 33 was substituted by the AO 1950, Sch 22.



# APPENDIX VI<sup>1</sup>

## *The Bengal General Clauses Act 1899*

(BENGAL ACT 1 OF 1899)

[18 January 1899]

An Act for further shortening the language used in Bengal Acts,<sup>2</sup>[and West Bengal Acts] and for other purposes

WHEREAS it is expedient further to shorten the language used in Bengal Acts,<sup>3</sup>[and West Bengal Acts] and to make certain other provisions relating to those Acts; It is hereby enacted as follows:

### PRELIMINARY

1. **Short Title**—This Act may be called the Bengal General Clauses Act 1899.
2. **Repeal of Bengal Act 5 of 1867**—[Repealed by the Repealing and Amending Act 1903 (1 of 1903).]

### GENERAL DEFINITIONS

3. **Definitions**—In this Act, and in all Bengal Acts made after the commencement of this act,<sup>4</sup> <sup>5</sup>[and in all West Bengal Acts] unless there is anything repugnant in the subject or context,—

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1 Local extent. Since this Act has no 'local extent' clause, it must be taken originally to have extended to the whole of the former Province of Bengal, including the de-regulationised tracts. Legislative Papers. For Statement of Objects and Reasons, see *Calcutta Gazette* 1898, Pt 4, p 570 and for Proceedings in Council, see *ibid*, Supplement, pp 1426, 1428, 1579 and 2538.

2 These words were inserted by paragraph (1) of art 3 of the Schedule to the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

3 *Ibid*.

4 See also ss 4-5.

5 These words were inserted by paragraph (1) of art 3 of the Schedule to the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

- (1) 'abet with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code;<sup>6</sup>
- (2) 'act,' used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions;
- (3) 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (4) 'barrister' shall mean a Barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;
- (5) <sup>9</sup>[\*\*\*\*\*];
- (6) 'Bengal Act' shall mean an Act made by the Lieutenant-Governor of Bengal in Council under <sup>11</sup>[the Indian Councils Act 1861], or the <sup>12</sup>[Indian Councils Acts 1861 and 1892] <sup>13</sup>[or the Indian Councils Acts 1861, 1892 and 1909], or made by the Governor-in-Council of Fort William in Bengal under the <sup>14</sup>[Indian Councils Acts 1861, 1892 and 1909] <sup>15</sup>[or the Government of India Act 1915, or by the Local Legislature or the Governor of Bengal under the Government of India Act, or by the Provincial Legislature or the Governor of Bengal under the Government of India Act 1935;
- (7) 'chapter' shall mean Chapter of the Act in which the word occurs;
- (8) 'collector' shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer-in-charge of the revenue administration of a district;
- (9) 'commencement' used with reference to an Act shall mean the day on which the Act comes into force;
- (10) 'commissioner' shall mean the chief officer-in-charge of the revenue administration of a division;

6 See Act 55 of 1860, ss 108 and 108A in the unrepealed Central Acts.

7 Cf s 33 of the Indian Penal Code (Act 55 of 1860) in the unrepealed Central Acts.

8 Cf the definitions of 'oath' and 'swear' in cl (29) and (44).

9 Omitted by AO 1937.

10 A similar definition is given in cl (5) of s 3 of the General Clauses Act 1897 (10 of 1897), printed in the unrepealed Central Acts. The definition was inserted in order to introduce a uniform method of citing Acts of the Bengal Council and to suggest the abandonment of the various other methods formerly adopted, eg, 'Act (BC) of 1869', 'Act 1 of 1869 passed by the Lieutenant-Governor of Bengal in Council'. The method of citation most commonly adopted was 'Act 1 (BC) of 1869, but the abbreviation of 'BC' is peculiarly inappropriate, inasmuch as it would stand equally well for Act of the Bombay or Burma Council, and is the recognized abbreviation for 'Before Christ'.

11 These words and figures in square brackets were inserted by the Amending Act 1903 (1 of 1903).

12 These Acts have been repealed by the Government of India Act 1915 (5 and 6 Geo 5 c 61), s 130 and the Sch 4.

13 These words and figures with square brackets were added by the Bengal Laws Act 1914 (Bengal Act 1 of 1914).

14 These words and figures in square brackets were inserted by the Amending Act 1903 (1 of 1903).

15 These words and figures in square brackets were inserted by Sch 4 to the Government of India (Adaptation of Indian Laws) Order 1937.

16 As to when an Act comes into force, see s 6.

- (11) <sup>17</sup>'consular office' shall include Consul-general, Consul, Vice-consul, Consular agent, pro-consul and any person for the time being authorised to perform the duties of Consul general. Consul, Vice-consul or consular agent;
- (12) 'District Judge' shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (13) <sup>18</sup>'document' shall include any matter written, <sup>19</sup>expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, which is intended to be used or which may be used for the purpose of recording that matter;
- (14) 'enactment' shall include regulation (as hereinafter<sup>20</sup> defined) and any Regulation of the <sup>21</sup>[West Bengal] Code, and shall also include any provision contained in any Act or in any such regulation as aforesaid;
- (15) 'father' in the case of anyone whose personal law permits adoption shall include an adoptive father;
- (16) 'financial year' shall mean the year commencing on the first day of April;
- (17) <sup>22</sup>'good faith' a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not;
- (18) <sup>23</sup>[\*\*\*];
- (19) <sup>24</sup>[\*\*\*];
- (20) <sup>25</sup>[\*\*\*];
- (21) <sup>26</sup>'immovable property' shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

- 17 For a similar definition, see the Consular Salaries and Fees Act 1891 (54 and 55 Vict c 36), s 3.
- 18 For similar definitions, see the Indian Penal Code (Act 45 of 1860), s 29, in the unrepealed Central Acts, and the Indian Evidence Act 1872 (1 of 1872), s 3 and the unrepealed Central Acts.
- 19 As to construction of expressions referring to writing, see cl (47) of this section.
- 20 See cl 35 of this section.
- 21 These words within square brackets were substituted for the word 'Bengal' by paragraph two of art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 22 For a similar definition, see the Bills of Exchange Act 1882 (45 and 46 Vict, c 61), s 90 and the Sale of Goods Act, 1893 (55 and 56 Vict, c 74), s 62(2). For discussion in His Excellency the Viceroy's Council upon the similar definition of 'good faith' contained in cl (20) of s 3 of the General Clauses Act 1897, see *Gazette of India*, March, 1897, Pt 6, pp 55-62, and 67-79. The definition in the present Act differs from the definition of 'good faith' contained in s 52 of the Indian Penal Code (Act 45 of 1860).
- 23 Clause (18) omitted by s 2(1) of the Bengal General Clauses (Amendment) Act 1940 (Bengal Act 1 of 1940).
- 24 Clause (19) omitted by AO 1937.
- 25 Clause (20) omitted by Bengal Act 1 of 1940.
- 26 The expression 'immovable property' is defined differently in the Indian Registration Act 1908 (16 of 1908), s 2(6). For a definition of 'land' applicable to Bengal Acts made between 1 June 1867 and 18 January 1899, see s 5.



- (22) 'imprisonment' shall mean imprisonment of either description<sup>27</sup> as defined in the Indian Penal Code;
- (23) <sup>28</sup>'local authority' shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the government with the control or management of a municipal or local fund;
- (24) <sup>29</sup>[\*\*\*];
- (25) 'magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure<sup>30</sup> for the time being in force;
- (26) <sup>31</sup>'master' used with reference to a ship, shall mean any person (except a pilot or harbour master) having for the time being control or charge of the ship;
- (27) 'month' shall mean a month reckoned according to the British calendar;
- (28) <sup>32</sup>'movable property' shall mean property of every description, except immovable property;
- (29) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;<sup>33</sup>
- (30) <sup>34</sup>'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (31) 'part' shall mean a part of the Act in which the word occurs;
- (32) <sup>35</sup>'person' shall include any company or association or body of individuals, whether incorporated or not;
- (33) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code<sup>36</sup>;
- (34) 'registered' used with reference to document, shall mean registered in <sup>37</sup>[a Pt A state or Pt C state] under the law<sup>38</sup> for the time being in force for the registration of documents;

27 It is rigorous or simple, see s 53 of Act 45 of 1860.

28 For a very similar definition, see the Local Authorities Loans Act 1914 (9 of 1914), s 2.

29 Clause (24) was omitted by Sch 4 to the Government of India (Adaptation of Indian Laws) Order 1937.

30 The Code now in force is Act 2 of 1974.

31 For a similar definition, see the Merchant Shipping Act 1894 (57 and 58 Vict, c 60) s 742, in the Collection of Statutes relating to India, 1913.

32 For a comprehensive definition of the word 'property', see s 168 of the Bankruptcy Act 1883 (46 and 47 Vict, c 52).

33 Cf the definition of 'affidavit' in cl (3) of the section.

34 For a similar definition see s 4(a) of the Code of Criminal Procedure 1898 (5 of 1898).

35 For a different definition of 'person' applicable to Bengal Acts made between 1 June 1867 and 18 January 1899 see s 5.

36 See Act 55 of 1860, s 268. For Procedure in dealing with public nuisance Chapter 10 of the Code of Criminal Procedure 1898 (5 of 1898).

37 The words 'a Province' were originally substituted for the words 'British India' by para (1) of art 3 of, and the Sch, to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948 and thereafter the words and letters within square brackets were substituted for the words 'a Province' paragraph 2 of, and Eleventh Schedule to, the Adaptation of Laws Order 1950.

38 See the Indian Registration Act 1908 (16 of 1908).

- <sup>39</sup>(35) 'regulation' shall mean a regulation made by the Governor under sub-para (2) of Para 5 of the Sch 5 to the Constitution and shall include a regulation made by the Central Government under the Government of India Act 1870, or the Government of India Act 1915, or the Government of India Act 1935, or by the governor under the government of India Act 1935, or by the President under art 243 of the Constitution);
- (36) <sup>40</sup>'rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;
- (37) 'schedule' shall mean a schedule to the Act in which the word occurs;
- (38) 'scheduled district' shall mean a 'Scheduled District' as defined in the Scheduled Districts Act 1874;
- (39) 'section' shall mean a section of the Act in which the word occurs;
- (40) <sup>41</sup>'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (41) 'sign' with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions;
- (42) 'son', in the case of anyone whose personal law permits adoption, shall include an adopted son;
- (43) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (44) <sup>42</sup>'swear' with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
- (45) <sup>43</sup>'vessel' shall include any ship<sup>44</sup> or boat or any other description of vessel used in navigation;
- (45-A) <sup>45</sup>'West Bengal Act' shall mean an Act made by the Provincial Legislature of West Bengal under the Government of India Act 1935, <sup>46</sup>[or by the Legislature of the State of West Bengal under the Constitution];
- (46) <sup>47</sup>'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;

39 This clause was substituted for the former cl (35) by para (3) of, and the Sch 11 to, the Adaptation of Laws Order 1950.

40 For provisions as to rules see ss 21-26, 29-30.

41 For a similar definition, see the Merchant Shipping Act 1894 (57 and 58 Vict c 60), s 712, in the Collection of Statutes relating to India, 1913.

42 Cf the definition 'affidavit' in cl (3) of this section and see the footnotes thereto.

43 For a similar definition, see the Merchant Shipping Act 1894 (57 and 58 Vict c 60), s 742, in the Collection of Statutes relating to India. The word 'vessel' is differently defined in the Indian Penal Code (Act 55 of 1860), s 48.

44 For definition of 'ship'; see cl (40) of this section.

45 This clause was inserted by paragraph (1) of art 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

46 These words within square brackets were added by para 3 of, and the Sch 11 to, the Adaptation of Laws Order 1950.

47 The word 'will' is differently defined in the Indian Succession Act 1925 (39 of 1925), s 2(h).



- (47) 'writing', expressions referring to 'writing' shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and
- (48) 'year' shall mean a year reckoned according to the British calendar.<sup>48</sup>

**4. Application of Certain of the Foregoing Definitions to Previous Bengal Acts—**the definition in s 3 of the following words, that is to say, 'Affidavit', 'magistrate', 'month', 'oath' and 'swear', apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts made between the 1 June 1867 and the commencement of this Act.

**5. Continuance of Certain Definitions for Purposes of Previous Bengal Acts—**In all Bengal Acts made between the 1 June 1867, and the commencement of this Act, unless there is anything repugnant in the subject or context,—

- (1) 'land' includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure; and
- (2) 'person' includes an incorporated company or incorporated association of persons.

**495A. Application of Certain Definitions in s 1 of Act 10 of 1897 to All Bengal and West Bengal Acts—**<sup>50</sup>[(1) The definitions in s 3 of the General Clauses Act 1897 (10 of 1897) of the expressions 'British India', 'Central Act', 'Central Government', 'Chief Controlling Revenue Authority', 'Chief Revenue Authority', 'Constitution', 'Gazette', 'Government', 'Government securities', 'High Court', 'India', 'Indian Law', 'Indian State', 'merged territories', '*Official Gazette*', 'Pt A state', 'Pt B state', 'Pt C state', 'Province', 'Provincial Act', 'Provincial government', 'state', 'state Ad' and 'state government' shall apply also unless there is anything repugnant in the subject or context, to all Bengal and West Bengal Acts.]

(2) In any Bengal Act <sup>51</sup>[or West Bengal Act], references to the <sup>52</sup>[state] government or 'Central Government' in any provision conferring power to make appointment to the civil services of, or civil posts under, the <sup>53</sup>[government] in India include references to such person as the state government or the Central Government, as the case may be, may direct, and in any provision conferring power

48 For the definition of 'financial year', see cl (16) of this section.

49 This section was inserted by s 3 of the Bengal General Clauses (Amendment) Act 1940 (Bengal Act 1 of 1940).

50 Sub-section (1) was substituted for the former sub-s (1) by para (3) of and the 11 Sch to, the Adaptation of Laws Orders 1950.

51 These words within square brackets were inserted by para (1) of art 3, of, and schedule, to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

52 The word 'State' was substituted for the word 'Provincial' by para 4(1) of the Adaptation of Laws Order 1950.

53 This word within square brackets was substituted for the words 'His Majesty', by para 4(1) of the Adaptation of Laws Order 1950.



to make rules prescribing the conditions of service of persons serving <sup>54</sup>[government] in a civil capacity in India, include references to any person authorised by the <sup>55</sup>[state] government or the Central Government, as the case may be, to make rules for the purpose.

(3) The references in any Bengal Act <sup>56</sup>[or West Bengal Act] to servants or under, or to service of or under, the Central Government or the state government or the State of West Bengal, to property of, or belonging to or vested in the Secretary of State in Council or the Central Government or the provincial government or the Province of Bengal, shall be construed as references respectively to persons in the service of the Crown to property vested in the Crown and to forfeitures to the Crown.

### GENERAL RULES OF CONSTRUCTION

**6. Coming into Operation of Bengal Acts or West Bengal Acts—<sup>57</sup>(1)** Where any Bengal Act or West Bengal Act is not expressed to come into operation on a particular day,—

- (a) in the case of Bengal Act or a West Bengal Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the governor, the governor-general or His Majesty, as the case may require, is first published in the *Official Gazette* and if it is an Act of the Governor of Bengal, on the day on which it is first published as an Act in the *Official Gazette*;
- (b) in the case of a West Bengal Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the president, as the case may be, is first published in the *Official Gazette*.]

(2) Unless the contrary is expressed, a Bengal Act <sup>58</sup>[or West Bengal Act] shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

**7. Printing of Date on Which Act is Published After Having Received the Assent of the Governor-General or His Majesty or the President—**In this Act and in every Bengal Act <sup>59</sup>[or West Bengal Act] made after the commencement of this Act,

- 54 The word 'State' was substituted for the word 'Provincial' by para 4(1) of the Adaptation of Laws Order 1950.
- 55 The word 'State' was substituted for the word 'Provincial' by para 4(1) of the Adaptation of Laws Order 1950.
- 56 These words within square brackets were inserted by para (1) of art 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 57 Sub-section (1) was substituted for the former sub-s (1) by para (3) of, and the 11 Sch to, the Adaptation of Laws Order 1950.
- 58 These words within square brackets were inserted by para (1) of art 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 59 Ibid.

the date of such publication as is mentioned in s 6, <sup>60</sup>[\*\*\*] shall be printed above the title of the Act and shall form part of the Act.

**8. Effect of Repeal**—Where this Act, or any Bengal Act <sup>61</sup>[or West Bengal Act] made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done<sup>62</sup> or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability<sup>63</sup> acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

#### Comments

The function of s 8 of the Bengal General Clauses Act which corresponds to s 6 of the (Central) General Clauses Act, is to attach a saving clause in terms of its provisions to even such repealing Act which do not contain a saving clause except where the repealing Act makes it clear that no saving is contemplated. But the effect of the provision is only to save and not to add or enact anything new.<sup>64</sup>

**<sup>65</sup>[8A. Repeal of Act Making Textual Amendment in Former Act]**—Where any Bengal Act <sup>66</sup>[or West Bengal Act] made after the commencement of this Act, repeals any enactment by which the text of any former enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal].

60 The word, figure and brackets 'sub-s (1)' were omitted by para 3 and Sch 4 to the Government of India (Adaptation of Indian Laws) Order 1937.

61 These words within square brackets were inserted by para (1) of art 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

62 As to the continuance of orders, etc, made under an enactment which is repealed and re-enacted, see s 25.

63 Ibid.

64 *Tarak Chandra Mukherjee v Ratan Lal Ghosal* AIR 1957 Cal 257, 262 (FB).

65 This section was inserted by s 4 of the Bengal General Clauses (Amendment) Act 1940 (Bengal Act 1 of 1940).

66 As to the continuance of orders, etc, made under an enactment which is repealed and re-enacted, see s 25.

**9. Revival of Repealed Enactments**—(1) in any Bengal Act <sup>67</sup>[or West Bengal Act] made after the commencement of this Act, it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed expressly to state that purpose.

(2) This section applies also to all Bengal Acts made between the 1 June 1867, and the commencement of this Act.

**10. Construction of References to Repealed Enactments**—Where this Act or any Bengal Act <sup>68</sup>[or West Bengal Act] made after the commencement of this Act, repeals and re-enacts with or without modifications, any provision of a former enactment, then references in any other enactment or in any instrument to the provisions so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

**11. Commencement and Termination of Time**—In any Bengal Act <sup>69</sup>[or West Bengal Act], made after the commencement of this Act, shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word 'from', and, for the purpose of including the last in a series of days or any other period of time, to use the word 'to'.

**12. Computation of Time**—Where, by any Bengal Act <sup>70</sup>[or West Bengal Act] made after the commencement of this Act, any Act or proceeding is directed or allowed to be done or taken in any court or office, on a certain day or within a prescribed period, then if the court or office is closed on that day or the last day of the prescribed period, the Act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open:

Provided that nothing in this section shall apply to any Act or proceeding to which the Indian Limitation Act <sup>71</sup>[1908] applies.

**13. Measurement of Distances**—In the measurement of any distance for the purposes of any Bengal Act [or West Bengal Act] made after the commencement of this Act that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

**14. Gender and Number**—In all Bengal Acts, <sup>72</sup>[and West Bengal Acts] unless there is anything repugnant in the subject or context,—

- (1) words importing the masculine gender shall be taken to include females; and
- (2) words in the singular shall include the plural and vice versa.

67 Ibid.

68 These words were inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

69 Ibid.

70 Ibid.

71 These figures within square brackets were substituted for the figures '1877' by the Bengal Repealing and Amending Act 1938 (Bengal Act 1 of 1939). Now substitute the year 1963.

72 Ibid.



14A. Reference to the Sovereign—[Repealed by the Adaptation of Laws Order 1950].

### POWERS AND FUNCTIONARIES

15. Powers Conferred to be Exercisable From Time to Time—Where, by any Bengal Act <sup>73</sup>[or West Bengal Act] made after the commencement of this Act, any power is conferred <sup>74</sup>[then unless a different intention appears] that power may be exercised from time to time as occasion requires.

16. Powers to Appoint to Include Power to Appoint '*Ex officio*'—Where by any Bengal Act <sup>75</sup>[or West Bengal Act] a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

17. Power to Appoint to Include Power to Suspend or Dismiss—Where, by any Bengal Act <sup>76</sup>[West Bengal Act] a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

18. Substitution of Functionaries—In any Bengal Act <sup>77</sup>[or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

19. Successors—In any Bengal Act <sup>78</sup>[or West Bengal Act] made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the succession of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

20. Officials, Chiefs and Subordinates—In any Bengal Act <sup>79</sup>[or West Bengal Act] made after the commencement of this Act, it shall be sufficient, for the purpose of expression that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

73 Ibid.

74 These words within square brackets were substituted for the words 'on the government then' by s 6 of the Bengal General Clauses (Amendment) Act 1940 (Bengal Act 1 of 1940).

75 These words were inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

76 Ibid.

77 Ibid.

78 Ibid.

79 Ibid.

**PROVISIONS AS TO ORDERS, RULES, ETC, MADE UNDER ENACTMENTS**

**21. Construction of Orders, etc, Issued Under Bengal Act <sup>80</sup>[or West Bengal Act]**—Where, by any Bengal Act <sup>81</sup>[or West Bengal Act], a power to issue any order, scheme, rule, bye-law, notification or form is conferred, then expression used in the order, scheme, rule, bye-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meaning as in the Act conferring the power.

**22. Power to Issue, to Include Power to Add to, Amend, Vary or Rescind Orders, etc**—Where by any Bengal Act <sup>82</sup>[or West Bengal Act], a power to <sup>83</sup>[issue] orders, rules, bye-laws or notifications is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye-laws or notifications, so <sup>84</sup>[issued].

**23. Making of Rules or Bye-laws and Issuing of Orders Between Publication and Commencement of Bengal Act <sup>85</sup>[or West Bengal Act]**—Where, by any Bengal Act <sup>86</sup>[or West Bengal Act] which is not to come into operation <sup>87</sup>[immediately on the passing thereof] a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any court or office, or the appointment of any judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which or the fees for which anything is to be done under the Act, then that power may be exercised at any time <sup>88</sup>[after the passing of the Act], but rules, bye-laws or orders so made or issued shall not take effect till the Commencement of this Act.

**24. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication**—Where, by any Bengal Act <sup>89</sup>[or West Bengal Act], a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely,—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules

80 Ibid.

81 Ibid.

82 Ibid.

83 This word within square brackets was substituted for the word 'make' by s 7 of the Bengal General Clauses (Amendment) Act 1940 (Bengal Act 1 of 1940).

84 This word within square brackets was substituted for the word 'made' by *ibid.*

85 These words were inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Act) Order 1948.

86 Ibid.

87 These words within square brackets were substituted for the words 'on the day on which it is first published in the *Calcutta Gazette* after having received the assent of the Governor-General' by Sch 4 to, the Government of India (Adaptation of Indian Laws) Order 1937.

88 Ibid.

89 Substituted for 'after Act has been published as aforesaid' by AO 1937.



- or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the <sup>90</sup>[government concerned] prescribes;
  - (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
  - (4) the authority having power to make rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
  - (5) the publication in the <sup>91</sup>[*Official Gazette*] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

**25. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted**—Where any enactment is after the commencement of this Act repealed and re-enacted by a Bengal Act <sup>92</sup>[or West Bengal Act] with or without modification then unless it is otherwise expressly provided, any <sup>93</sup>[appointment], order, scheme, rule, bye-law, notification or form <sup>94</sup>[made or] issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force and be deemed to have been <sup>95</sup>[made or] issued under the provisions so re-enacted, unless and until it is superseded by any <sup>96</sup>[appointment], order, scheme, rule, bye-laws, notification or form <sup>97</sup>[made or] issued under the provisions so re-enacted.

#### MISCELLANEOUS

**26. Recovery of Fines**—Sections 63–70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines<sup>98</sup> shall apply to all fines imposed

- 90 The words 'Central Government or as the case may be, the provincial government' were originally substituted for the words 'local government' by Sch 4 to, the Government of India (Adaptation of Indian Laws Order 1937, and thereafter these words within square brackets were substituted for the words 'Central Government or, as the case may be, the provincial government' by para 3 of, and the Eleventh Sch to, the Adaptation of Laws Order 1950.
- 91 Words within square brackets were substituted for the words '*Calcutta Gazette*' by para 4(1) of the Government of India (Adaptation of Indian Laws) Order 1937.
- 92 These words inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 93 This word within square brackets was inserted by the Amending Act 1903 (1 of 1903).
- 94 These words within square brackets were inserted by *ibid*.
- 95 See ss 386–89 of Act 5 of 1898. Inserted by *ibid*.
- 96 These words within square brackets were inserted by *ibid*.
- 97 See ss 386–89 of Act 5 of 1898. Inserted by *ibid*.
- 98 *Ibid*.



under any Bengal Act <sup>99</sup>[or West Bengal Act] or any rule or bye-law made under any Bengal Act <sup>1</sup>[or West Bengal Act], unless the Act, rule or bye-law contains an express provision to the contrary.

**27. Provision as to Offences Punishable Under Two or More Enactments**—Where an act or omission constitutes an offence<sup>2</sup> under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

**28. Meaning of Service by Post**—Where any Bengal Act <sup>3</sup>[or West Bengal Act] made after the commencement of this Act authorises or requires any document to be served by post, whether the expression 'serve' or either of the expressions 'give' or 'send' or any other expression is used, then, unless a different intention appears, the service shall be deemed to be affected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

#### Comments

Since the West Bengal Tenancy Act 1956 have not authorised or required service of a notice to vacate premises, by post, the obligatory presumption of service of notice by registered post is not available to Lessor under s 28 of Bengal General Clauses Act 1899.<sup>4</sup> However in *Mono Ranjan Das Gupta v Suchitra Ganguly* the Calcutta High Court has later in 1989 held, the presumption under s 28 of West Bengal General Clauses Act 1899 as optional though not obligatory in the suits of eviction as to the service of notice.<sup>5</sup>

**29. Citation of Enactments**—(1) Where any Bengal Act <sup>6</sup>[or West Bengal Act] and in any rule, bye law, instrument or document made under or with reference to any Bengal Act <sup>7</sup>[or West Bengal Act], any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act, and in any Bengal Act <sup>8</sup>[or West Bengal Act] made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

**30. Saving for Previous Acts, Rules and Bye-laws**—Where any Act, rules or bye-law made after the commencement of this Act continues or amends any Acts,

99 This word within square brackets was inserted by the Amending Act 1903 (1 of 1903).

1 Ibid.

2 These words inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

3 This word within square brackets was inserted by the Amending Act 1903 (1 of 1903).

4 *Md Shaharyar Baig v RP Bhal* (1987) 91 (Cal WN 197, 209).

5 *MR Dasgupta v S Ganguly* AIR 1989 Cal 14, 18, (1988) 92 CWN 929, (1988) 1 CHN 219.

6 These words were inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

7 This word within square brackets was inserted by the Amending Act 1903 (1 of 1903).

8 Substituted for the original section by AO 1950.

rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not, by reason merely of such continuance or amendment, affect the construction of such Acts, rules or bye-laws.

**§[31. Application to Eastern Bengal and Assam Acts and Ordinances and Regulations—**The provisions of this Act shall apply—

- (a) in relation to any Eastern Bengal and Assam Acts as in force in West Bengal and any regulation made by the Governor under s 92 of the Government of India Act 1935, as they apply in relation to Bengal Act <sup>10</sup>[or West Bengal Act] made by the Provincial Legislature, and in relation to any Ordinance promulgated by the Government of Bengal under s 88 or s 89 of the said Act or by the Governor of West Bengal under s 88 of the said Act as they apply in relation to a Bengal Act made under the said Act by the Governor; and
- (b) in relation to any Ordinance promulgated by the Governor under art 213 of the Constitution or by any regulation made by the Governor under sub-para (2) or para 5 of the Schedule 5 to the Constitution, as they apply in relation to a West Bengal Act made by the State Legislature:

Provided that cl (b) of sub-s (1) of s 6 of this Act shall apply to any Ordinance referred to in cl (b) as if for the reference in the said cl (b) of sub-s (1) to the day of the first publication of the assent to an Act in the *Official Gazette* there were substituted a reference to the day of the first publication of the Ordinance in that *Gazette*.]

9 Ibid.

10 These words were inserted by art 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

# APPENDIX VII

## *The Bihar And Orissa General Clauses Act 1917*

(BIHAR AND ORISSA ACT 1 OF 1917)<sup>1</sup>

[25 April 1917]

An Act for shortening the language used in certain Acts in force in Bihar and Orissa and for other purposes

WHEREAS it is expedient to provide for the interpretation of certain Acts in force in Bihar and Orissa for shortening the language used therein and for making certain other provisions relating to such Acts;

AND WHEREAS the previous sanction of the Governor-General has been obtained under s 79 of the Government of India Act 1915 (5 and 6 Geo 5, c 61) to the passing of this Act;

It is hereby enacted as follows:

### PRELIMINARY

**1. Short Title**—This Act may be called the Bihar and Orissa General Clauses Act 1917.

**2. Repeal of Bengal Act 1 of 1899**—The Bengal General Clauses Act 1899, so far as it applies to Bihar and Orissa, is hereby repealed.

**3. Application of Act to other Enactments**—The provisions of ss 4 and 6 to 32 shall apply to this Act, and shall apply, and shall be deemed always to have applied, to all Bihar and Orissa Acts, made whether before or after the commencement of this Act.

### DEFINITIONS

**4. Definitions**—In all Bihar and Orissa Acts, <sup>2</sup>(and Bihar Acts), unless there is anything repugnant in the subject or context,—

(1) 'abet' with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code;

1 For Statement of Objects and Reasons, see *Bihar and Orissa Gazette 1917*, Pts 5, 12; for Report of the Select Committee and for proceedings in Council, *ibid*, 1917 Pt 6, 13 and 44.

2 Substituted by AO 1937.



- (2) 'act' used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done shall extend also to illegal omissions;
- (3) 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (4) 'barrister' shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;
- (5) 'Bengal Act' shall mean an Act made by the Lieutenant-Governor of Bengal in Council, under the Indian Councils Act 1861, or the Indian Councils Acts 1861 and 1892, or the<sup>3</sup> Indian Councils Acts 1861 to 1909.
- <sup>4</sup>[(5-A) 'Bihar Act' shall mean an Act made by the Provincial Legislature or the Governor of Bihar under the Government of India Act 1935 or by the Legislature of the State of Bihar under the Constitution].
- (6) <sup>5</sup>[\*\*\*]
- (7) 'Bihar and Orissa Act' shall mean an Act made by the Lieutenant-Governor of Bihar and Orissa in Council under the Indian Councils Acts 1861 to 1909 or the Government of India Act 1915 <sup>6</sup>[or by the Local Legislature or the Governor of Bihar and Orissa or of Bihar under the Government of India Act] and include—
- (i) a Bengal Act made after the 18 January 1899, which is still in force in Bihar and Orissa;
- (ii) with respect to cl (3), (32), (34), (37) and (54) of this section and in ss 6, 15, 19, 24–26, 29 and 32(1) of Bengal Act made after the 1 June 1867, which is still in force in Bihar and Orissa;
- (8) <sup>7</sup>[\*\*\*]
- (9) 'British possession' shall mean any part of His Majesty's Dominions, exclusive of the United Kingdom, and, where parts of those Dominions are under both a Central and a Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition be deemed to be one British possession;
- (10) 'chapter' shall mean a Chapter of the Act in which the word occurs;
- (11) 'collector' shall mean the chief officer in charge of the revenue administration of a district and shall include a Deputy Commissioner;
- (12) 'commencement', used with reference to an Act, shall mean the day on which the Act comes into force;
- (13) 'commissioner' shall mean the chief officer in charge of the revenue administration of a division;
- (14) 'consular officer' shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

3 For Statement of Objects and Reasons, see *Bihar and Orissa Gazette 1917*, Pts 5, 12; for Report of the Select Committee and for Proceedings in Council, *ibid*; 1917 Pts 6, 13–14.

4 Added by AO 1937 read with AO 1950.

5 Omitted by AO 1937.

6 Inserted by *ibid*.

7 Omitted by *ibid*.

- (15) 'district court' shall mean the principal civil court of original jurisdiction of a district, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (16) 'District Judge' shall mean the Judge of a district court;
- (17) 'document' shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used or which may be used, for the purpose of recording that matter;
- (18) 'enactment' shall include a regulation (as hereinafter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such regulation as aforesaid;
- (19) 'father' in the case of anyone whose personal law permits adoption, shall include an adoptive father;
- (20) 'financial year' shall mean the year commencing on the 1 April;
- (21) <sup>8</sup>[\*\*\*]
- (22) a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not;
- <sup>9</sup>(23) 'government' or 'the government' shall include both the Central Government and the state government];
- (24) <sup>10</sup>[\*\*\*]
- (25) 'High Court' used with reference to civil proceedings, shall mean the highest Civil Court of Appeal in the part of Bihar and Orissa, in which the Act containing the expression operates;
- (26) <sup>11</sup>[\*\*\*]
- (27) 'immovable property' shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;
- (28) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code;
- (29) <sup>12</sup>[\*\*\*]
- (30) 'local authority' shall mean a Municipal Committee, District Board, or any other authority entrusted <sup>13</sup>[by any government] with, or legally entitled to, the control or management of a Municipal or local fund;
- (31) <sup>14</sup>[\*\*\*]
- (32) 'magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force;
- (33) 'master' used with reference to a ship, shall mean any person (except a pilot or harbour master) having for the time being control or charge of the ship.

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8 Omitted by AO 1937.

9 Inserted by AO 1950.

10 Omitted by AO 1937.

11 Omitted by AO 1950.

12 Omitted by AO 1937.

13 Substituted by AO 1937.

14 Omitted by AO 1937.

- (34) 'month' shall mean a month reckoned according to the British calendar;
- (35) 'movable property' shall mean property of every description except immovale property;
- (36) 'notification' shall mean a notification in the, *Gazette*;
- (37) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (38) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (39) 'part' shall mean a part of the Act or regulation in which the word occurs;
- (40) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- <sup>15</sup>(41) 'political agent' shall mean—
- (a) in relation to any territory outside India, the principal officer, by whatever name called, representing the Central Government in such territory; and
  - (b) in relation to any territory within India to which the Act or Regulation containing the expression does not extend any officer appointed by the Central Government to exercise all or any of the powers of a political agent under that Act or Regulation];
- (42) <sup>16</sup>[\*\*\*]
- (43) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;
- (44) 'registered', used with reference to a document, shall mean registered in <sup>17</sup>[India] under the law for the time being in force for the registration of documents;
- <sup>18</sup>(45) 'regulation' shall mean a Regulation made by the governor under sub-para (2) of para 5 of the Sch 5 to the Constitution and shall include a Regulation made by the Central Government under the Government of India Act 1870, or the Government of India Act 1915, or the Government of India Act 1935 or by the President under art 243 of the Constitution];
- (46) 'rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment;
- (47) 'schedule' shall mean a schedule to the Act or Regulation in which the word occurs;
- (48) 'Scheduled District' shall mean a 'Scheduled District' as defined in the Scheduled Districts Act 1874;
- (49) 'section' shall mean a section of the Act or Regulation in which the word occurs;
- (50) 'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;

15 Substituted by AO 1950.

16 Omitted by AO 1937.

17 Substituted by Bihar ALO 1957.

18 Substituted by AO 1950.



- (51) 'sign' with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions;
- (52) 'son' in the case of anyone whose personal law permits adoption shall include an adopted son;
- (53) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (54) 'swear' with its grammatical variations and cognate expressions shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
- (55) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (56) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (57) expressions referring to 'writing' shall be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in visible form; and
- (58) 'year' shall mean a year reckoned according to the British calendar.

**5. Continuance of Certain Definitions for Purposes of Certain Acts**—In any Bengal Act made between the 1 June 1867, and the 18 January 1899, which is still in force in Bihar and Orissa, unless there is anything repugnant in the subject or context,—

- (1) 'land' includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure; and
- (2) 'person' includes any incorporated company or incorporated association of persons.

**<sup>19</sup>[5A. Construction of References to Revenues of the State of Bihar for Purposes of Certain Laws**—In any Bengal Act or Bihar and Orissa Act or Bihar Act, references, by whatever form of words, to revenues of the state government shall be construed as references to the Consolidated Fund of the State of Bihar.]

#### GENERAL RULES OF CONSTRUCTION

**6. Coming into Operation of Acts**—(1) Where any Bihar and Orissa Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the assent thereto of the Governor-General is first published in the <sup>20</sup>(*Official Gazette*) in pursuance of s 81 of the Government of India Act 1915.

<sup>21</sup>(I-A) Where any Bihar Act is not expressed to come into operation on a particular day—

- (i) in the case of a Bihar Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the

<sup>19</sup> Inserted by Bihar Act 18 of 1954.

<sup>20</sup> Substituted by AO 1950.

<sup>21</sup> Added by AO 1950.

Legislature, on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the *Official Gazette*, and if it is an Act of the Governor of Bihar, on the day on which it is first published as an Act in the *Official Gazette*;

- (ii) in the case of a Bihar Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette*.

(2) Unless the contrary is expressed, Bihar and Orissa Act<sup>22</sup>(or Bihar Act) shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

**7. Printing of Date on Which Act is Published**—In every Bihar and Orissa Act<sup>23</sup>(or Bihar Act) the date of such publication as is mentioned in s 6, sub-s (1), shall be printed either above or below the title of the Act and shall form part of the Act.

**8. Effect of Repeal**—Where any Bihar and Orissa Act<sup>24</sup>(or Bihar Act) repeals any enactment hitherto made, or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

**25[8-A. Repeal of Act Making Textual Amendment in Bihar Act or Bihar and Orissa Act or Bengal Act**—Where any Bihar Act made after the commencement of this Act repeals any enactment by which the text of any Bihar Act or any Bihar and Orissa Act or any Bengal Act was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal].

22 Inserted by AO 1937.

23 See *Ibid*.

24 See *Ibid*.

25 Added by Bihar Act 1 of 1939.

**9. Revival of Repealed Enactments**—In any Bihar and Orissa Act <sup>26</sup>[or Bihar Act] it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially, repealed expressly to state that purpose.

**10. Construction of References to Repealed Enactments**—Where any Bihar and Orissa Act <sup>27</sup>[or Bihar Act] repeals and re-enacts, with or without modification, any provision of a former enactment, references in any other enactment or in any instrument to the provision so repealed, shall, unless a different intention appears, be references to the provision so re-enacted.

**11. Commencement and Termination of Time**—In any Bihar and Orissa Act <sup>28</sup>[or Bihar Act] it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word 'from' and, for the purpose of including the last in a series of days or any other period of time to use the word 'to'.

**12. Computation of Time**—Where, by any Bihar and Orissa Act or Bihar Act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act 1908, applies.

**13. Measurement of Distances**—In the measurement of any distance, for the purposes of any Bihar and Orissa Act <sup>29</sup>[or Bihar Act] that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

**14. Duty to be Taken 'pro rata' in Enactments**—Where by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

**15. Gender and Number**—In all Bihar and Orissa Acts <sup>30</sup>(or Bihar Act), unless there is anything repugnant in the subject or context,—

- (1) words importing the masculine gender shall be taken to include females; and
- (2) words in the singular shall include plural, and vice versa.

#### POWERS AND FUNCTIONARIES

**16. When Powers and Duties to be Exercised and Performed**—Where a Bihar and Orissa Act <sup>31</sup>[or Bihar Act] confers a power or imposes a duty, then the power

26 Inserted by AO 1937.

27 Ibid.

28 Ibid.

29 Inserted by AO 1937.

30 Ibid.

31 Substituted by AO 1950.



may be exercised and the duty shall be performed from time to time as occasion requires.)

**17. Exercise of Power and Performance of Duty by Temporary Holder of Office**—Where a Bihar and Orissa Act <sup>32</sup>[or Bihar Act] confers a power or imposes a duty on the holder of an office, as such, then, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

**18. Power to Appoint to Include Power to Appoint 'ex officio'**—Where, by a Bihar and Orissa Act, <sup>33</sup>(or Bihar Act) a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

**19. Power to Appoint to Include Power to Suspend or Dismiss**—Where, by any Bihar and Orissa Act <sup>34</sup>[or Bihar Act], a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

**20. Substitution of Functionaries**—In any Bihar and Orissa Act <sup>35</sup>[or Bihar Act] it shall be sufficient, for the purpose of indicating the application of a law to every person or a number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

**21. Successors**—In any Bihar and Orissa Act <sup>36</sup>[or Bihar Act] it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

**22. Official Chiefs and Subordinates**—In any Bihar and Orissa Act <sup>37</sup>[or Bihar Act] it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of the office in the place of their superior, to prescribe the duty of the superior.

Provisions as to Orders, Rules, etc, made under Enactment

**<sup>38</sup>23. Construction of Orders, etc, Issued Under Enactments**—Where, by any Bihar and Orissa Act [or Bihar Act], a power to make or issue any notification, order, scheme, rule, bye-law or form is conferred, the expressions used in the notification, order, scheme, rule, bye-law or form, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

32 Inserted by AO 1937.

33 Ibid.

34 Ibid.

35 Ibid.

36 Ibid.

37 Inserted by AO 1937.

38 Ibid.

**24. Power to Make to Include Power to Add to, Amend, Vary or Rescind, Orders, Rules or Bye-laws**—Where, by any Bihar and Orissa Act <sup>39</sup>[or Bihar Act] a power to make or issue notifications, orders, schemes, rules, bye-laws or forms, is conferred, then that power includes a power exercisable in the like manner and subject to the like sanctions (if any) to add to, amend, vary or rescind any notifications, orders, schemes, rules, bye-laws or forms so made or issued.

**25. Making of Rules or Bye-laws and Issuing of Orders between Passing and Commencement of Enactments**—Where, by any Bihar and Orissa Act <sup>40</sup>[or Bihar Act] which is not to come into operation on <sup>41</sup>[the passing thereof], a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or with respect to the establishment of any court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom or the time when or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised any time after <sup>42</sup>[the passing thereof] but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

**26. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication**—Where, by any Bihar and Orissa Act <sup>43</sup>[or Bihar Act], a power to make rules or bye-laws is expressed to be given, subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely,—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires. In such manner as the government concerned prescribes;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) the authority having power to make the rules or bye-laws, and where the rules or bye-laws are to be made with sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

39 Inserted by AO 1937.

40 Ibid.

41 Ibid.

42 Inserted by AO 1937.

43 Substituted by AO 1937.

**27. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted**—Where any enactment is repealed and re-enacted by a Bihar and Orissa Act <sup>44</sup>[or Bihar Act] with or without modification, then unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, bye-law or form, made or issued under the repealed enactment, shall, so far as it is not inconsistent with the provisions reenacted, continue in force and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, bye-law or form, made or Issued under the provisions so re-enacted.

#### Comments

A rule validly framed is a part of the Act under which it is framed. Section 27 says that repeal of the Act may not amount to repeal of rules if they are not inconsistent with any provision of the new Act until rules are framed under the new Act formally repealing the rule either expressly or impliedly.<sup>45</sup>

**28. Publication of Orders and Notifications in the Gazette**—Where in any Bihar and Orissa Act <sup>46</sup>[or Bihar Act] or in any rule made under any such Act, it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the *Gazette*.

#### MISCELLANEOUS

**29. Recovery of Fines**—Sections 63 to 70 of the Indian Penal Code and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Bihar and Orissa Act <sup>47</sup>[or Bihar Act] or any rule or bye-law made under any Bihar and Orissa Act <sup>48</sup>[or Bihar Act] unless the Act, rule or bye-law contains an express provision to the contrary.

**30. Provision as to Offences Punishable Under Two or More Enactments**—Where an act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

**31. Meaning of Service by Post**—Where any Bihar and Orissa Act <sup>49</sup>[or Bihar Act] authorises or requires any document to be served by post, whether the expression 'serve' or either of the expression 'give' or 'send' or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre paying and posting by registered post a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

44 Inserted by AO 1937.

45 *Rajkeshwar Pd Singh v State of Bihar* 1987 Pat LJR 842 (845).

46 Inserted by AO 1937.

47 Ibid.

48 Ibid.

49 Ibid.



### Comments

Where it is clear from the record that steps were taken by plaintiff and summons were sent by registered post through *Nazarat*, the presumption shall be drawn in favour of plaintiff unless contrary proved that the summons were validly served on defendants.<sup>50</sup>

**32. Citation of Enactment**—(1) In any Bihar and Orissa Act<sup>51</sup>[or Bihar Act] and in any rule, bye-law, instrument or document, made under, or with reference to, any Bihar and Orissa Act<sup>52</sup>[or Bihar Act], any enactment may be cited by reference to the title or short title (if any) conferred thereon, or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In any Bihar and Orissa Act<sup>53</sup>[or Bihar Act] a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

**33. Saving of Previous Enactments, Rules and Bye-laws**—Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such amendment affect the construction of such Acts, rules or bye-laws.

**34. 'Application of Act to Ordinances and Regulations'**—The provisions of this Act shall apply—

- (a) in relation to any ordinance promulgated by the governor under s 88 or s 89 of the Government of India Act 1935 as they apply in relation to Bihar Acts made under the said Act by the Governor, and in relation to any regulation made by the governor under s 92 of the said Act as they apply in relation to Bihar Acts made by the Provincial Legislature; and
- (b) in relation to any Ordinance promulgated by the Governor under art 213 of the Constitution or any Regulation made by the Governor under para 5 of the Sch 5 to the Constitution, as they apply in relation to Bihar Acts made by the State Legislature:

Provided that cl (ii) of sub-s (1A) of s 6 of this Act shall apply to any Ordinance referred to in cl (b) as if for the reference in the said cl (ii) to the day of the first publication of the assent to an Act in the *Official Gazette*, there were substituted a reference to the day of the first publication of the Ordinance in the *Gazette*.

50 Ibid.

51 Ibid.

52 Inserted by AO 1937.

53 Ibid.

# APPENDIX VIII

## *The Bombay General Clauses Act 1904<sup>1</sup>*

(BOMBAY ACT NO 1 OF 1904)

An Act for further shortening the language used in Bombay Acts and for other purposes

WHEREAS it is expedient further to shorten the language used in Bombay Acts, and to make certain other provisions relating to those Acts;

It is hereby enacted as follows:

### PRELIMINARY

1. **Short title**—This Act may be called the Bombay General Clauses Act 1904.

<sup>2</sup>[1A, **Extension of Application of Act to Acts, Rules, etc, Made on or After the 1 November 1956**—The provisions of this Act which relate to Bombay Acts, Regulations and Ordinances shall apply also in relation to Acts, Regulations and Ordinances of the <sup>3</sup>State of Bombay passed, made or promulgated on or after the 1 November 1956 and such, provisions of this Act as relate to any notification, order, scheme, rule, bye-law, or form shall apply also in relation to any notification, order, scheme, rule, bye-law or form issued or made under any Act, Regulation or Ordinance passed, made or promulgated on or after that date.

Provided that where any such Act, Regulation, Ordinance, notification, order, scheme, rule, bye-law or form passed, made or promulgated on or after the 1 November 1956, amends any Act, Regulation, Ordinance, notification, order, scheme, rule, bye-law or form passed, made or promulgated before that date in relation to the territories transferred to the new State of Bombay under cl (b) to (e) of sub-s (1) of s 8 of the State Reorganisation Act 1956, the law in force of these territories in respect of the interpretation of the law so amended shall apply to the amending law, and not the provisions hereinafter of this Act.

1 For Statement of Objects and Reasons, see *Bombay Government Gazette 1903*, Pt 7, 5-6, for Report of Select Committee, see *ibid 1904*, Pt 8, 1 and for Proceedings in Council, see *ibid 1903*, Pt 7, 133, *ibid 1904*, Pt 7, 42.

2 This section was inserted by Bombay Act 26 of 1957, s 2.

3 The words 'State of Bombay' shall stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

**11B. Extension of Application of Act to Acts, Rules, etc of State of Maharashtra**—The provisions of this Act which relate to Bombay passed Acts, Regulations and Ordinances shall apply also in relation to Acts, Regulations and Ordinances of the State of Maharashtra, made or promulgated on or after the 1 May 1960, and such provisions of the Act as relate to any notification, order, scheme, rule, bye-law or form shall apply also in relation to any notification, order, scheme, rule, bye-law, or form issued or made under any Act, Regulation or Ordinance passed, made or promulgated on or after that date.

Provided that, where any such Act, Regulation, Ordinance, notification, order, scheme, rule, bye-law or form passed, made or promulgated on or after that date amends any Act, Regulation, Ordinance, notification, order, scheme, rule, bye-law or form passed, made or promulgated in relation to any territory of the State of Gujarat, not being the Bombay area of that State, the law in force in those territories in respect of the interpretation of the law so amended shall apply to the amending law, and not the provisions hereinafter of this Act.

**2. Repeal**—The Bombay Acts mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

### GENERAL DEFINITIONS

**3. Definitions**—In this Act, and in all Bombay Acts, <sup>5</sup>(or Maharashtra Acts) made after the commencement of this Act, unless there is anything repugnant in the subject or context:

- (1) 'abet', with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (45 of 1860);
- (2) 'act', used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions;
- (3) 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (4) 'barrister' shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;
- (5) 'Bombay Act' shall mean an Act made by the <sup>6</sup>(Governor of Bombay) in Council under the <sup>7</sup>(Indian Councils Act 1861) or the Indian Councils Acts 1861 and 1892, <sup>8</sup>(or the Indian Councils Acts 1861 to 1909) or the Government of India Act 1915, or made by the local legislature or the Governor of the Presidency of Bombay under the Government of

4 This section was inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

5 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

6 These words stand unmodified, vide Maharashtra Adaptations of Laws (State and Concurrent Subjects) Order 1960.

7 See now the Government of India Act 1935.

8 This words and figures were inserted by the Adaptation of Indian Laws Order in Council.



India Act, or by the Provincial Legislature, or the <sup>9</sup>(Governor of Bombay) under the Government of India Act 1935 <sup>10</sup>(or made by the legislature) of the <sup>11</sup>(pre-Reorganisation or recognised) <sup>12</sup>(State of Bombay) under the Constitution;

<sup>13</sup>(6) 'Bombay area of the State of Maharashtra' shall mean the area of the State of Maharashtra excluding the Vidarbha region, and the Hyderabad area, of that state;

(7) <sup>14</sup>(\*\*\*)

(8) <sup>15</sup>(\*\*\*)

(9) 'chapter' shall mean a chapter of the Act in which the word occurs;

<sup>16</sup>[(10) 'city of Bombay' shall mean the area within the local limits of the ordinary original civil Jurisdiction of the Bombay High Court of Judicature immediately before the date on which the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act 1945, came into force].

(11) 'collector' shall mean, in the City of Bombay, the Collector of Bombay, and elsewhere the chief officer in charge of the revenue administration of a district;

(12) 'commencement' used with reference to an Act, shall mean the day on which Act comes into force;

<sup>17</sup>[(13) 'commissioner' shall mean the Commissioner of a division appointed under the Bombay and Revenue Code 1879;]

(14) 'consular officer' shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

(15) 'district judge' shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil Jurisdiction;

(16) 'document' shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more

9 These words stand unmodified, vide Maharashtra Adaptations of Laws (State and Concurrent Subjects) Order 1960.

10 This portion was inserted by the Adaptation of Laws Order 1950.

11 These words were substituted for the words 'State of Bombay' by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956.

12 These words stand unmodified, vide Maharashtra Adaptations of Laws (State and Concurrent Subjects) Order 1960.

13 This clause was inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960. It has been held in *Kumari Rukmani v Appellate Authority under Maharashtra Medical Practitioners Act 1961* AIR 1970 Bom 10, 13, that Baroda is not part of State of Maharashtra.

14 Clauses (7) and (8) were omitted by the Adaptation of Indian Laws Order in Council.

15 Ibid.

16 This clause was substituted for the original by Bombay Act 17 of 1945, s 9, Sch E, read with Bombay Act 3 of 1947; s 2, proviso.

17 This clause was inserted by Bombay Act 8 of 1958, s 3, schedule.

- than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter;
- (17) 'enactment' shall include <sup>18(\*\*\*)</sup> any Regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such regulation as aforesaid;
- (18) 'father' in the case of anyone whose personal law permits adoption shall include an adoptive father;
- (19) 'financial year' shall mean the year commencing on the 1 April;
- (20) 'good faith'—a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not;

#### Comments

While the Bombay General Clauses Act emphasises 'honesty' ignoring the factor of negligence, the Limitation Act emphasises on both, 'honesty' and 'due care and attention'.<sup>19</sup>

- <sup>20</sup>[(21) 'Gujarat Act' shall mean an act made on or after 1 May 1960 by the legislature of the State of Gujarat under the Constitution (Declaration of Limits) Act 1945].
- <sup>21</sup>(22) 'High Court' used with reference to civil proceedings shall mean the highest Civil Court of appeal in the part of the Bombay Presidency, (and after the 1 May 1960 in the part of the State of Gujarat) in which the Act containing the expression operates;
- <sup>22</sup>(23) 'Hyderabad Area' of the <sup>23</sup>(State of Bombay) shall mean the territories transferred to the new State of Bombay under cl (b) of sub-s (1) of s 8 of the States Reorganisation Act 1956 <sup>24</sup>(and after the 1 May 1960 the said territories which form part of the State of Maharashtra) shall be known as the Hyderabad area of the State of Maharashtra;
- (24) 'immovable property' shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;
- (25) 'imprisonment' shall mean imprisonment of either description as defined in the <sup>25</sup>(Indian Penal Code) (45 of 1860);  
<sup>26</sup>(\*\*\*)

18 The words were deleted by Bombay Act 5 of 1948, s 2.

19 *GS Pathak v SS Nisal* AIR 1955 Bom 93, 97 (1954) 56 Bom LR 597.

20 Inserted by the Gujarat Adaptation of Laws order, 1960.

21 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

22 Original cl (23) was omitted by the Adaptation of Laws Order 1950 and a new cl (23) was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956, as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order 1957.

23 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

24 These words were inserted, by *ibid.*

25 Central Acts.

26 Clause (25A) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

- (26) 'local authority' shall mean a municipal corporation, municipality, local board, body of port trustees or commissioners or other authority legally entitled to, or entrusted by the government with the control or management of a municipal or local fund;
- <sup>27</sup>[(27) 'Maharashtra Act' shall mean an Act made on or after the 1 May 1960 by the Legislature of the State of Maharashtra under the Constitution].
- (28) 'Magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of criminal Procedure for the time being in force;
- (29) 'master' used with reference to a ship, shall mean any person (except a pilot or harbour master) having for the time being control or charge of the ship;
- (30) 'month' shall mean a month reckoned according to the British Calendar;

#### Comments

A month means 12th part of a solar year called a solar month and not a lunar month, month of 30 days, duration. According to the British Calendar a solar year is divided into 12 parts as January, February and so on. The period of one month will not therefore necessarily of 30 days' duration. The duration of month shall depend upon the number of days in the relevant month according to British calendar.<sup>28</sup>

- (31) 'movable property' shall mean property of every description, except immovable property;
- (32) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (33) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (34) 'part' shall mean a part of the Act in which the word occurs.
- (35) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- <sup>29</sup>[(35A) 'Pre-Reorganisation'<sup>30</sup>(State of Bombay') shall mean—
- (a) as respects any period before the commencement of the Constitution, the area comprised in the Province of Bombay;
  - (b) as respects any period after the commencement of the Constitution, the territories of the State of Bombay as specified in the First Schedule to the Constitution before the commencement of the States Reorganisation Act 1956].
- (36) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code (45 of 1860);

27 This clause was inserted by Maharashtra Adaptation of laws (State and Concurrent Subjects) Order 1960.

28 *Pushpaben N Rathod v Uttam Chand B Nahar* (1985) 2 Bom CR 650, 653.

29 This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956.

30 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.



- <sup>31</sup>[(37) 'registered' used with reference to a document, shall mean registered in a Pt A state or a Pt C state under the law for the time being in force for the registration of documents];
- (38) <sup>32</sup>[\*\*\*].
- (39) 'rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;
- (39A) <sup>33</sup>[\*\*\*].
- (40) 'Schedule' shall mean a Schedule to the Act in which the word occurs.
- (41) <sup>34</sup>['Scheduled District'] shall mean a 'Scheduled District' as defined in the <sup>35</sup>Scheduled Districts Act 1874 (12 of 1874);
- (42) 'section' shall mean a section of the Act in which the word occurs;
- (43) 'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (44) 'sign' with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions;
- (45) 'son' in the case of any one whose personal law permits adoption, shall include an adopted son;
- (46) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- <sup>36</sup>[(46A) <sup>37</sup>(State of Bombay)' shall mean—
- (a) as respects any period before the 1 November 1956, the pre-Reorganisation State of Bombay;
- (b) as respects any period on and after that day the territories comprised in the new State of Bombay under s 8 of the States Reorganisation Act 1956]; (37 of 1956).
- <sup>36</sup>[(46AA) 'State of Maharashtra' shall mean the territories which on the 1 May 1960, are known as the State of Maharashtra under s 3 of the Bombay Reorganisation Act 1960];

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31 Clause (37) was substituted for the original by the Adaptation of Laws Order 1950.

32 Clause (38) was deleted by Bombay Act 5 of 1948, s 2.

33 Clause (39A) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

34 That is the villages belonging to the following Mehwasli Chiefs (1) The Parvi of Kathi, (2) The Parvi of Nal, (3) The Parvi of Singpur, (4) The Walvi of Gaohall, (5) The Wassawa of Chikhli, and (6) The Parvi of Nawalpur.

35 The Scheduled Districts Act ceases to have effect under the Adaptation to Indian laws Order-in-Council.

36 This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956.

37 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

38 This clause was inserted, by *ibid*.

- <sup>39</sup>[(46B) 'transferred territories' shall mean the territories transferred from the pre-Reorganisation <sup>40</sup>(State of Bombay) to the new States of Mysore and Rajasthan under ss 7 and 10 of the States Reorganisation Act 1956];
- (47) 'swear' with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
- (48) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- <sup>41</sup>[(48A) 'Vidarbha region, or Madhya Pradesh area, or Vidarbha area, of the <sup>42</sup>(State of Bombay)' shall mean the territories transferred to the new State of Bombay under cl (c) of sub-s (1) of s 8 of the States Reorganisation Act 1956, <sup>43</sup>(and after the 1 May 1960 the said territories which form part of the State of Maharashtra shall be known as the Vidarbha region or Madhya Pradesh area, or Vidarbha area of the State of Maharashtra);
- (49) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (50) expressions referring to 'writing' shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words or figures in a visible form on any substance; and
- (51) 'year' shall mean a year reckoned according to the British calendar.

**4. Application of Certain of the Foregoing Definitions to Previous Bombay Acts**—The definitions in s 3 of the following words, that is to say, 'abet', 'affidavit' <sup>44</sup>[\*\*\*] <sup>45</sup>[Bombay area of the State of Maharashtra], 'chapter', 'city of Bombay', 'Collector', 'Commissioner', 'good faith', <sup>46</sup>[Greater Bombay] <sup>47</sup>[\*\*\*] <sup>48</sup>[Hyderabad

- <sup>39</sup> This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956.
- <sup>40</sup> These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
- <sup>41</sup> This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order 1957.
- <sup>42</sup> These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
- <sup>43</sup> This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order 1957.
- <sup>44</sup> The words 'British India', 'Government of India', and 'Presidency of Bombay' were omitted by the Adaptation of Indian Laws Order in Council.
- <sup>45</sup> These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
- <sup>46</sup> These words were inserted by Bombay Act 17 of 1945 read with Bombay Act 52 of 1947, s 2, proviso.
- <sup>47</sup> The words 'British India', 'Government of India', and 'Presidency of Bombay' were omitted by the Adaptation of Indian Laws Order in Council.
- <sup>48</sup> This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order 1957.

area of the <sup>49</sup>{State of Bombay}] <sup>50</sup>[\*\*\*] Immovable property, imprisonment, 'Magistrate', 'month', 'movable property', 'oath', 'part', 'person' <sup>51</sup>{pre-Reorganisation <sup>52</sup>{State of Bombay}] <sup>53</sup>[\*\*\*] <sup>54</sup>[\*\*\*] 'Schedule', 'section', <sup>55</sup>{State of Bombay}, <sup>56</sup>{State of Maharashtra}, 'swear', '[transferred territories], 'vessel' <sup>57</sup>{Vidarbha region or Madhya Pradesh area, or Vidarbha area of the <sup>58</sup>{State of Bombay}], 'writing' and 'year', apply also, unless there is anything repugnant in the subject or context, to all Bombay Acts made before the commencement of this Act.

### GENERAL RULES OF CONSTRUCTION

<sup>59</sup>5. Coming into Operation of Bombay Acts <sup>60</sup>{or Maharashtra Acts}—(1) Where any Bombay Act <sup>61</sup>{or Maharashtra Act] is not expressed to come into operation on a particular day then—

- (i) in the case of a Bombay Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the official Gazette and, if it is an Act of the Governor, on the day on which it is first published as an Act in the *Official Gazette*;
- (ii) in the case of a Bombay Act <sup>62</sup>{or Maharashtra Act] made after the commencement of the Constitution, it shall come into operation on

49 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

50 The words 'Kutch area of the State of Bombay' and 'Saurashtra area of the State of Bombay' were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

51 These words were inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956.

52 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

53 The words 'Kutch area of the State of Bombay' and 'Saurashtra area of the State of Bombay' were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

54 The words 'British India', 'Government of India', and 'Presidency of Bombay' were omitted by the Adaptation of Indian Laws Order in Council.

55 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

56 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

57 These words were inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order 1957.

58 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

59 This sub-section was substituted for the original sub-section by the Adaptation of Laws Order 1950.

60 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

61 Ibid.

62 Ibid.



the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette*.)

(2) Unless the contrary is expressed, a Bombay Act <sup>63</sup>[or Gujarat Act] shall be construed as coming into operation immediately on the expiration of the day preceding to its commencement.

**6. Printing of Date on Which Act is Published After Having Received the Assent of the Governor, Governor-General, or His Majesty, as the Case may Require—**

In this Act, and in every Bombay Act <sup>64</sup>[or Maharashtra Act], made after the commencement of this Act the date of such publication as is mentioned in s 5, sub-s (1) shall be printed above the title of the Act, and shall form part of the Act.

**7. Effect of Repeal—**Where this Act, or any Bombay Act <sup>65</sup>[or Maharashtra Act] made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be Instituted, continued or enforced, and any such penalty, forfeiture or punishment may be enforced, as if the repealing Act had not been passed.

**Comments**

By virtue of the Bombay General Clauses Act all pending proceeding under Bombay Municipal Boroughs Act 1925 held saved even after its being repealed by Bombay Provincial Municipal Corporation Act 1949 <sup>66</sup>

**67[7-A. Repeal of Enactment Making Textual Amendment in Any Act—**Where any Bombay Act <sup>68</sup>[or Maharashtra Act] made after the commencement of this Act

63 Ibid.

64 Ibid.

65 The words 'British India', 'Government of India', and 'Presidency of Bombay' were omitted by the Adaptation of Indian Laws Order in Council.

66 *Firoze F Taraporewalla v Municipal Corpn. Poona* AIR 1952 Bom 283, 284, 1952 (54) Bom LR 233.

67 This section was inserted by Bombay Act 5 of 1948, s 3.

68 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

**8. Revival of Repealed Enactments**—(1) In any Bombay Act <sup>69</sup>[or Maharashtra Act] made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, and enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

**9. Construction of Reference to Repealed Enactments**—Where this Act, or any Bombay Act <sup>70</sup>[or Maharashtra Act] made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then reference in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as reference to the provision so re-enacted.

**10. Commencement and Termination of Time**—(1) In any Bombay Act <sup>71</sup>[or Maharashtra Act] made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word 'from' and for the purpose of including the last in a series of days or any other period of time, to use the word 'to'.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

#### Comments

Section 10(1) applies when the legislature intends to exclude the first day from the period of time allowed for a purpose. Where words 'with effect from' are used, the intention of legislature can not be interpreted to exclude the first day.<sup>72</sup>

**11. Computation of Time**—Where, by any Bombay Act <sup>73</sup>[or Maharashtra Act] made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open:

Provided that nothing in this section shall apply to any Act or proceeding to which the <sup>74</sup>[Indian Limitation Act 1877] applies.

69 Ibid.

70 Ibid.

71 Ibid.

72 *Gopal Raghunath v Govind Pandurang* AIR 1953 Bom 198-99, 300, (1953) 55 Bom LR 74.

73 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

74 Indian Limitation Act 1963, Central Acts.

**12. Measurement of Distances**—In the measurement of any distance for the purpose of any Bombay Act<sup>75</sup>[or Maharashtra Act] made after the commencement of the Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

**13. Gender and Number**—In all Bombay Acts<sup>76</sup>[or Maharashtra Acts] unless there is anything repugnant in the subject or context,—

- (a) words importing the masculine gender shall be taken to include females; and
- (b) words in the singular shall include the plural, and vice versa.

#### POWERS AND FUNCTIONARIES

**14. Powers Conferred on Any Government to be Exercisable from Time to Time**—Where by any Bombay Act<sup>77</sup>[or Maharashtra Act] made after the commencement of this Act any power is conferred on<sup>78</sup>[any government] then that power may be exercised from time to time as occasion requires.

##### Comments

If the power is conferred on the government to issue a notification, the government can exercise that power from time to time as the occasion requires.<sup>79</sup> The power conferred to prepare voter's list under BV Panchayat Act includes the power to correct the voter's list from time to time.<sup>80</sup>

**15. Power to Appoint to Include Power to Appoint 'ex officio'**—Where, by any Bombay Act<sup>81</sup>[or Maharashtra Act] a power to appoint any person to fill any office or execute any function is conferred then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

**16. Power to Appoint to Include Power to Suspend or Dismiss**—Where by any Bombay Act<sup>82</sup>[or Maharashtra Act] a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

**17. Substitution of Functionaries**—(1) In any Bombay Act<sup>83</sup>[or Maharashtra Act] made after the commencement of this Act it shall be sufficient for the purpose

75 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

76 Ibid.

77 Ibid.

78 The words 'any Government' were substituted for the words 'the Government' by the Adaptation of Indian Laws Order-in-Council.

79 *Chiman Lal Dipchand v Bombay State* AIR 1954 Bom 397 (405), 1954 (56) Bom LR 321.

80 *Dhondba v Civil Judge, Hinganghat* 1966 Mah LJ 869 (872).

81 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

82 Ibid.

83 Ibid.



of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

**18. Successors**—(1) In any Bombay Act <sup>84</sup>[or Maharashtra Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

**19. Official Chiefs and Subordinates**—(1) In any Bombay Act <sup>85</sup>[or Maharashtra Act] made after the commencement of this Act it shall be sufficient for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior to prescribe the duty of the superior.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

Provisions as to Orders, Rules, etc, made under Enactments.

**20. Construction Orders, etc, Issued Under Bombay Acts <sup>86</sup>[or Maharashtra Acts]**—Where, by any Bombay Act <sup>87</sup>[or Maharashtra Act] a power to issue any notification, order, scheme, rule, bye-law or form is conferred then expressions used in the notifications, order, scheme, rule, bye-law or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power

**21. Power to Make to Include Power to Add to, Amend, Vary or Rescind Orders, etc**—Where, by any Bombay Act <sup>88</sup>(or Maharashtra Act), a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and condition (if any) to add, to amend, vary or rescind any notification, orders, rules or bye laws, so issued.

#### Comments

Section 21 applies to the orders other than orders issued by an authority exercising judicial functions.<sup>89</sup>

84 Ibid.

85 Ibid.

86 Ibid.

87 Ibid.

88 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

89 *Mul Raj Khatan Trust v Ramji Govind* 1965 Mah LJ 90, 94 (Revenue Section).

22. Making of Rules or Bye-laws and Issuing of Orders Between Publication and Commencement of Bombay Act <sup>90</sup>[or Maharashtra Act]—Where, by any Bombay Act <sup>91</sup>[or Maharashtra Act] which is not to come into operation on <sup>92</sup>[the passing thereof], a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any court or office, or the appointment of any Judge or office thereunder, or with respect to the person by whom, or the time when or the place where, or the manner in which, or the fees for which anything is to be done under the Act, then that power may be exercised at any time after <sup>93</sup>[the passing thereof], but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

23. Publication of Orders and Notifications in the *Official Gazette* to be Deemed to be Due Publication—Where, in any Bombay Act <sup>94</sup>[or Maharashtra Act], or in any rule passed under any such Act, it is directed that any order, notification or other matter shall be notified or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the <sup>95</sup>[*Official Gazette*].

24. Provisions Applicable to Making of Rules or Bye-laws After Previous Publications—Where, by any Bombay Act <sup>96</sup>[or Maharashtra Act], a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely—

- (a) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (b) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication

90 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

91 Ibid.

92 The words 'the passing thereof', were substituted for the words 'the day on which it is first published in the Bombay Government Gazette after having received the assent of the Governor-General and 'the Act has been published as aforesaid' respectively by the Adaptation of Indian Laws Order in Council.

93 The words 'the passing thereof', were substituted for the words 'the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor-General and 'the Act has been published as aforesaid' respectively by the Adaptation of Indian Laws Order in Council.

94 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

95 The words '*Official Gazette*' were substituted for the words 'Bombay Government Gazette' by the Adaptation of Indian Laws Order in Council.

96 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

- so requires, in such manner as the <sup>97</sup>[Central Government] or as the case may be the <sup>98</sup>[state] government prescribes;
- (c) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
  - (d) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
  - (e) the publication in the <sup>99</sup>[*Official Gazette*] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

**25. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted**—Where any enactment is, after the commencement of this Act repealed and re-enacted by a Bombay Act <sup>1</sup>[or Maharashtra Act] with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, bye-law or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions, so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, bye-law or form made or issued under the provisions so re-enacted.

### MISCELLANEOUS

**26. Recovery of Fines**—Sections 63–70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Bombay Act <sup>2</sup>[or Maharashtra Act] or any rule or bye-law made under any Bombay Act <sup>3</sup>[or Maharashtra Act] unless the Act, rule or bye-law contains an express provision to the contrary.

**27. Provision as to Offences Punishable Under Two or More Enactments**—Where an act or omission constitutes an offence under two or more enactments,

- 97 The words 'Central Government, or as the case may be, the provincial government' were substituted for the words 'local government' by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
- 98 This word was substituted for the word 'Provincial' by the Adaptation of laws Order 1950.
- 99 The words '*Official Gazette*' were substituted for the words 'Bombay Government Gazette' by the Adaptation of Indian Laws Order in Council.
  - 1 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
  - 2 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
  - 3 This word was substituted for the word 'Provincial' by the Adaptation of laws Order 1950.



then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

**28. Meaning of 'Service by Post'**—Where any Bombay Act <sup>4</sup>(or Maharashtra Act) made after the commencement of this Act authorises or requires any document to be served by post, whether the expression 'serve' or either of the expressions 'give' or 'send' or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

**29. Citation of Enactments**—(1) In any Bombay Act <sup>5</sup>[or Maharashtra Act] and in any rule, bye law, instrument or document made under, or with reference to any Bombay Act <sup>6</sup>[or Maharashtra Act] any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act, and in any Bombay Act <sup>7</sup>[or Maharashtra Act] made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

**30. Saving for Previous Acts, Rules and Bye-laws**—Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or bye-laws.

**<sup>8</sup>[31. Application to Ordinances and Regulations**—The provisions of this Act shall apply,—

- (a) in relation to any Ordinance promulgated by the <sup>9</sup>[Governor of Bombay] under s 88 of the Government of India Act 1935, as they apply in relation to Bombay Acts made under the said Act, by the Governor and in relation to any regulation made by the Governor under s 92 of the said Act as they apply in relation to Bombay Acts made by the Provincial Legislature; and

4 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

5 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

6 Ibid.

7 Ibid.

8 Section 31 was substituted by the Adaptation of Laws Order 1950.

9 These words stand unmodified, vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.

- (b) in relation to any Ordinance promulgated by the Governor under art 213 of the Constitution or any regulation made by the Governor under para 5 of the 5 Sch to the Constitution, as they apply in relation to Bombay Acts <sup>10</sup>[or Maharashtra Acts] made by the state legislature:

Provided that cl (ii) of sub-s (a) of s 5 of this Act shall apply to any Ordinance referred to in cl (b) as if for the reference in the said cl (ii) to the day of the first publication of the assent to an Act in the *Official Gazette* there were substituted a reference to the day of the first publication of the Ordinance in that *Gazette*.

**SCHEDULE**  
**Enactments Repealed**  
(See s 2)

Year	No	Title or Subject	Extent of repeal
1886	3	The Bombay General Clauses Act, 1886	The whole <sup>11</sup> [except] so much of <sup>12</sup> [Sch B] as relates to unrepealed enactments.
1891	1	An act to amend the Bombay General Clauses Act 1886	So much as is unrepealed.
1896	1	An Act to amend the Bombay General Clauses Act 1886	The whole.

<sup>13</sup>[**SCHEDULE B to the Bombay General Clauses Act 1886 (3 of 1886)**]  
Verbal Amendments made in the Regulations and Acts  
of the Governor of Bombay in Council

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
Regulation— <sup>14</sup> 12 of 1827	19	1	'Magistrate'	'District Magistrate'

- 10 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order 1960.
- 11 Ins by s 2 of the Bombay Repealing and Amending Act 1905 (Bombay Act 4 of 1905).
- 12 Printed as an Appendix to this Act.
- 13 This schedule so far as it affects unrepealed enactments has been reproduced here as an Appendix as the insertion of certain words in the Schedule to Bombay Act 1 of 1904 by Act 4 of 1905, has revived it as regards such enactments. Entries relating to sections which have been repealed or substituted after the passing of Bombay Act 4 of 1905, have also been omitted, a footnote for explanation being given in each case.
- 14 Bombay Regulation 12 of 1827, s 19, cl 1 6 7 and 8 are repealed by the Bombay District Police Act 1890 (Bombay Act 4 of 1890) wherever that Act extends. The regulation was repealed by Bombay Act 63 of 1959.

APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
22 of 1827	19	6	'The Magistrate' (the first time the words occur)	'the District Magistrate'.
	19	6	'the Magistrate' the second time the words occur)	'any Magistrate'.
	19	6	'ordinary'	'Simple.'
	19	6	'without labour'	...
	19	7	'Magistrate' (the first time the word occurs)	'District Magistrate'.
	19	7	'Magistrate' (the second time the word occurs).	'Magistrate before whom proceedings against such individual are being held.'
	19	8	'the Magistrate shall also'	'any Magistrate may.'
	15(20)	..	Magistrate'	'District Magistrate.'
	27	2	'Magistrate' (each time the word occurs)	'District Magistrate.'
	27	2	'ordinary'	'simple.'
	27	2	'without hard labour'	...
	37	1	'Magistrate'	'District or Sub-Divisional Magistrate.'
	40	..	'Magistrate'	'District Magistrate'
	41	1	'local'	'District'.
	42	1	'local'	'District.'
42	2,3,4	'Magistrate' (each time the word occurs)	'District Magistrate.'	
25 of 1827	4	2	'Magistrate'(both times the word occurs)	'District Magistrate.'
	7	..	'Magistrate'	'District Magistrate.'

15 On coming into force of Pt 6 of the Bombay Weights and Measures Act 1932 (Bombay Act 15 of 1932) in any area, the entry relating to s 20 of Bombay Regulation 12 of 1827, shall be deemed to be repealed (vide Second Schedule, Pt 2 and s 47 of Bombay Act 15 of 1932).



Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
Acts— 161 of 1862	1	..	'Amendment to this Act'	...
Acts— 4 of 1862	1	..	'the Magistrate' (the second time the words occur)	'a Magistrate of the first class.'
	1	..	'calendar'	...
	6	..	'Magistrate'	'District Magistrate.'
	6	..	'this Act'	'Section 4'.
4 of 1862	6	..	'of Police'	...
	7	..	'of either kind'	...
	7	..	'calendar'	...
	10	..	'Magistrate'	'District Magistrate.'
	10	..	'of Police'	...
5 of 1862	3	..	'Calendar'	...
6 of 1862	8&9	..	'Calendar' (each time the word occurs).	...
	21	..	The following words and expressions'	...
	21	..	'shall have the meanings hereby assigned to them'	...
	21	..	'(that is to say)'	...
1 of 1863	6	..	'Justice of the Peace of person exercising the power of a magistrate within the province of Sind'	'of the first class.'
	12	..	Ditto	Ditto
	11	..	'of this Act'	...
11 of 1863	2	..	'of this Act' (the first time the words occur)	...
	3, 4, 5, 7, 8, 10, 11 and 13	..	'of this Act' (each time the words occur)	...
	4, 5, & 11	..	'calendar' (each	...

APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
1 of 1863	11	5 & 11	time the word occurs) 'collectorate or' (each time the words occur)	'District.'
		4	'collectorate'	'District.'
		6	'collectorate' (each time the word occurs)	'District.'
5 of 1863	1 and 2		'to this Act' (each time the words occur)	...
7 of 1863	20		'of this Act'	... * ] ...
7 of 1863	17[*		*	... * ] ...
	6		'of this Act' (the first time the words occur)	...
	7, 8, 9, 11, 12, 13, & 26		'of this Act' (each time the words occur)	...
	9	1 & 2	'collectorate or' (each time the words occur)	...
		3, 4, 6 and 7	'collectorate' (each time the word occurs)	'District'
7 of 1866	9	8	'calender'	...
	9	9	'Revenue'	...
	9	9	'of the division'	...
	12	..	'or Sub-Collector'	...
	20	2	'annexed'	...
	6	..	'of this Act'	...
12 of 1866	15	..	'annexed to this Act'	...
18[*	*		*	* ]
6 of 1867		5, 9 & 10	'of this Act' (each time the words	...

17 The entry relating to Bombay Act 6 of 1863 is omitted as the Act has been repealed by Bombay Act 7 of 1920.

18 The entry relating to Bombay Act 13 of 1866 is omitted as that Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
197 of 1867	34	..	occur) 'of this Act' (each time the words occur)	...
8 of 1867	34	..	'full power Magistrate'	'Magistrate of the first class.'
		201	'Commissioner of Police' Act 1861.	'Acts 1867 and 1890'.
		3, 4, 5, 15 and 18	'of Police' (wherever in the said sections these words follow the word Commissioner')	...
2 of 1868 21[*]		5	'Police' (in each place in which the word precedes the word 'Commissioner')	...
		18 17	'of this Act' 'Revenue of Police'	... ... * * *]
1 of 1874	In the preamble		'to this Act'	...
	4		The last three words	...
	13		'of this Act' (the first time the words occur).	...
2 of 1874	14		'of the Act'	...
	29		'calender'	...
	15		'of this Act' (each time the words occur)	...
22(3 of 1874		3, 4, 6, 7	'of this Act' (each	...

19 During such time as Bombay Act 6 of 1933 and the rules and bye-laws shall be in operation in any village, ss 33-34 of Bombay Act 7 of 1867 cease to have any operation in the said village. See s 155 of Bombay Act 6 of 1933.

20 Inserted by the Bombay General Clauses Amendment Act 1891 (Bombay Act 1 of 1891).

21 The entry relating to Bombay Act 3 of 1879 is omitted as that Act has been repealed by Bombay Act 6 of 1933.

22 The entries relating to ss 44, 47, 50 and 59 of this Act are omitted as they have been repealed or substituted by Bombay Act 3 of 1910.



APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed		
No and year	Section	Clause				
Acts—	6	10, 11 12, 13 21, 31, 37, 39, 55, 67, 73, 75, 76 & 83	time the words occur)			
		1	'Revenue' (each time the word occurs)	...		
		20		'of this Act' (the first time the words occur)	...	
		40	1	the last three words	...	
		73	2	'thereof	...	
			74	'revenue'	...	
			74	'appointed under Regulation 5 of 1830 or other law in force for the time being	...	
			77	'empowered under the provisions of Bombay Act 1 of 1868'.	...	
			84	'so empowered'	...	
			77	'Revenue'.	...	
		3 of 1875		7	'of either description'	...
		2 of 1876		7	'Calender'.	...
		14, 16, 18 & 33	'of this Act (each time the words occur).	...		
		16	'hereunto annexed'.	...		
		31	'annexed to this Act'	...		
1 of 1877	23]*	*	*	*] ...		
		3,9,16 17 & 25	'of this Act' (each time the words occur)	...		
		9,10,11 14,15,	'hereto annexed' (each time the	...		

23 The entry relating to Bombay Act 3 of 1876 is omitted as the Act has been repealed by Bombay Act 2 of 1906.

APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
1 of 1877	12	17 & 18	words occur).	
		(b)	'of this Act'.	...
	23	19	'of this Act' (the first time the words occur).	...
		(b)	'of this Act'.	...
		20 & 24	'of either description within the meaning of the Indian Penal Code' (in each place in which these words occur).	...
Acts — 245 of 1878	3	28	The provisions of ss 64 to 70, both inclusive, of the Indian Penal Code shall apply to'.	
		28	'and all such fines'.	
	3	3	means in Sind, the <sup>25</sup> (Provincial Government) and elsewhere a Commissioner of Land Revenue, or, if Government appoint any other office to be a Commissioner for the purposes of this Act' such other officer.	'Includes an officer appointed by government to be a Commissioner for the purpose of this Act.'
	3	4	means 'a Collector of Land - Revenue or'	'includes'
	45		'of this Act' (each time the words occur).	

24. The entry relating to s 50 of this Act is omitted as the section has been subsequently substituted by Bombay Act 12 of 1912.

25. The words 'Provincial Government' were substituted for the words 'Commissioner in Sind' by the Adaptation of Indian Laws Order in Council.

APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
4 of 1879	3		The last three words 'hereto annexed' (each time the words occur).  'of this Act' (each time the words occur). 'of this Act'. 'of this Act' (the first time the words occur). 'of either description within the meaning of the Indian Penal Code (in each place in which the words occur). 'of this Act'. 'of this Act'.	
	9, 10			
	11, 14, 15, 17 & 18,			
	9, 16, 17 & 25.			
	12	(b)		
19	..			
5 of 1879	20 & 24			
	23	(b)		
	3	2		
	10, 13, 18, 38, 86, 87, 161 & 216			
<sup>26</sup> 6 of 1879	23		'to this act'.	
	21 & 34		'of this Act'	
<sup>27</sup> 7 of 1879	3,	5	'means the head revenue officer of a district and'.	
	57		'of this Act'.	
	61 & 62		'of either description within the meaning of the said Code' in each place in which these words occur).	
<sup>28</sup> 1 of 1880	67		'of the division'.	
	3	7	'hereto annexed'.	

26 The entries relating to ss 2, 214-215 of this Act are omitted as these sections have been repealed or substituted by Bombay Act 4 of 1913.

27 Ibid.

28 Ibid.



APPENDIX VIII

Enactment			Words repealed	Words, if any, substituted for the words repealed
No and year	Section	Clause		
<sup>29</sup> 1 of 1883	33 3, 5 & 8	(b)	'hereto annexed'. 'of this Act' (each time the words occur).	
<sup>30</sup> 2 of 1883	3 In the preamble. 4 17		'annexed to this act'. 'to this Act'. 'to this Act'. of this Act' (the first time the words occur).	
<sup>31</sup> *	*		*	*]

29 Ibid.

30 Ibid.

31 The entry relating to Bombay Act 1 of 1884 is omitted as that Act has been repealed by Bombay Act 6 of 1913.