

APPENDIX IX

The CP and Berar General Clauses Act 1914

(CP ACT NO 1 OF 1914)

An Act for facilitating the interpretation of ¹(Madhya Pradesh Acts) and for shortening the language used therein

PREAMBLE

WHEREAS it is expedient to facilitate the interpretation of ²[Madhya Pradesh Acts] and to shorten the language used therein;
It is hereby enacted as follows:

PRELIMINARY

- 1. Short Title and Commencement**—(1) This Act may be called the Central Provinces and Berar General Clauses Act 1914;
(2) it shall come into force at once.
For comments, see Bombay General Clauses Act 1904, s 1.

DEFINITIONS

2. Definitions—In this Act, and in all ³[Madhya Pradesh Acts] made after the commencement of this Act ⁴[but before the 1 November 1956, 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 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;

1 Substituted by the Adaptation of Laws Order 1950, for 'Central Provinces Acts and Central Provinces and Berar Acts'.

2 Ibid.

- (4) 'barrister' shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;
- ⁵(4A) 'Berar' shall have the same meaning as in the Government of India Act 1935;
- ⁶(5) [***];
- (6) 'British possession' shall mean any part of His Majesty's dominions, exclusive of the United Kingdom, and where parts of these 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;
- ⁷(7) 'Central Provinces' shall mean the territories; excluding Berar, ⁸[which before the 15 August 1947 were under the administration of the Chief Commissioner or the Governor of the Central Provinces or the Governor of the Central Provinces and Berar];
- ⁹(8) [***];
- ¹⁰(8A) [***];
- (9) 'chapter' shall mean a Chapter of the ¹¹[Madhya Pradesh Act] or Regulation in which the word occurs;
- (10) 'collector' shall mean the chief officer in charge of the revenue administration of a district;
- (11) 'colony'—
- ¹²(a) in any Madhya Pradesh Act passed after the commencement of the Pt 3 of the Government of India Act 1935 shall mean any part of His Majesty's dominions exclusive of the British Islands, 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 Madhya Pradesh Act passed before the commencement of Pt 3 of the said Act, mean any part of His Majesty's dominions exclusive of the British Islands, and of British India; and in either case where parts of those dominions are under both Central and local legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony];
- (12) ¹³'commencement', used with reference to an Act, shall mean the day on which the Act comes into force;

⁵ This clause was inserted by Adaptation of Laws Order 1937.

⁶ This clause was omitted by *ibid.*

⁷ This clause was substituted by Adaptation of Laws Order 1937.

⁸ Substituted by Adaptation of Laws Order 1950, for 'for the time being.'

⁹ These clauses were omitted by Adaptation of Laws Order 1950.

¹⁰ *Ibid.*

¹¹ Substituted by Adaptation of Laws Order 1950, for 'Provincial Act.'

¹² Substituted by Adaptation of Laws Order 1950.

¹³ Substituted by Adaptation of Laws Order 1950, for 'Provincial Act.'

- (13) ¹⁴['Commissioner' shall mean the Commissioner of a division appointed under the Madhya Pradesh Revenue Code 1954];
- (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 in a district;
- (16) '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;
- (17) 'enactment' shall include any provision contained in any ¹⁵[Madhya Pradesh Act] or Regulation;
- (18) 'father', in the case of anyone whose personal law permits adoption shall include an adoptive father;
- ¹⁶(19) [***];
- (20) 'financial year' shall mean the year commencing on the 1 April;
- ¹⁷[(21) 'Gazette' shall mean the official Gazette of the State];
- (22) '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(23) [***];
- ¹⁹(24) [***];
- ²⁰(24A) 'Governor' shall mean, before the commencement of Pt 3 of the Government of India Act 1935 the Governor of the Central Provinces ²¹[***] after the commencement of the said Pt 3 ²²[but before the commencement of the Constitution] the Governor of the Central Provinces and Berar ²³[and after the commencement of the Constitution but before the 1 November 1956 the Governor of the State of Madhya Pradesh as existing immediately before the said day and on and after that day the Governor of the State of Maharashtra²⁴ as formed by the Provisions of Pt 2 of the States Reorganisation Act 1956);
- ²⁵(25) [***];

14 Now see the Central Provinces & Berar Commissioners (Construction and References) Act 1948 (61 of 1948).

15 Substituted by Adaptation of Laws Order 1950 for 'Provincial Act'.

16 These clauses were omitted by Adaptation of Laws Order 1937.

17 This clause was substituted by Adaptation of Laws Order 1937.

18 These clauses were omitted by Adaptation of Laws Order 1937.

19 Ibid.

20 This clause was inserted by *ibid.*

21 The word 'and' was omitted by Adaptation of Laws Order 1950.

22 These words were inserted by *ibid.*

23 Substituted by AO 1956.

24 Substituted by AO 1960.

25 This clause was omitted by Adaptation of Laws Order 1950.

- (26) '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;
- (27) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code (45 of 1860).
- ²⁶(28) [***];
- (29) 'local authority' shall mean a municipal committee, district council or other authority legally entitled to, or entrusted by the government with, the control or management of a municipal or local fund;
- ²⁷(30) 'Madhya Pradesh Act' shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under any of the Indian Councils Acts or the Government of India Act 1915, or an Act made by the local legislature or the Governor of the Central Provinces under the Government of India Act or an Act made by the Provincial Legislature or the Governor of the Central Provinces and Berar under the Government of India Act 1935, ²⁸(or an Act made under the Constitution by the Legislature of the State of Madhya Pradesh as existing immediately before the 1 November 1956,
- (31) 'magistrate' shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure (5 of 1898) [Now see Code of Criminal Procedure 1973 (Act 2 of 1974)], for the time being in force;
- ²⁹(31-a) 'mahakoshal region' shall mean the area comprised within the districts of Jabalpur, Sagar, Damoh, Mandla, Hosangabad, Narsimhapur, chindwara, Seoni, Betul, Nimar, Raipur, Bilaspur, Durg, Baslar, Surguja, Rajgarh & Balashal.
- ³⁰(31b) 'merged territories' means the territories comprised within the State merged in Madhya Pradesh by virtue of the State Merger (Governor's Provinces) Order 1949, promulgated under s 290A of the Government of India Act 1935];
- (32) 'month' shall mean a month reckoned according to the British calendar;
- (33) 'movable property' shall mean property of every description, except immovable property;
- (34) 'notification' shall mean a notification published in the Gazette.
- (35) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (36) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (37) 'Part' shall mean a Part of the ³¹[Madhya Pradesh Act] or Regulation in which the word occurs;

²⁶ This clause was omitted by Adaptation of Laws Order 1937.

²⁷ This clause was substituted by Adaptation of Laws Order 1950.

²⁸ Substituted by AO 1956.

²⁹ Inserted and renumbered by ALO 1956.

³⁰ This clause was inserted by MP Act 12 of 1950.

³¹ Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

- (38) 'Person' shall include any company or association or body of individuals, whether incorporated or not;
- ³²(39) [***];
- ³³(39A) [***];
- ³⁴(39B) [***];
- (40) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code (45 of 1860);
- (41) 'registered' used with reference to a document, shall mean registered in ³⁵[India] under the law for the time being in force, for the registration of documents;
- (42) 'regulation' shall mean a Regulation made ³⁶[by the Governor of the Central Provinces and Berar under s 92 of the Government of India Act 1935] ³⁷[or a regulation under paragraph 5 of the Fifth Schedule to the Constitution made before the 1 November by the Governor of the State of Madhya Pradesh as existing immediately before the said day and on and after that day by the Governor of the State of ³⁸[Maharashtra] as formed by the provisions of Pt 2 of the State Reorganisation Act 1956];
- (43) '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;
- (44) 'schedule' shall mean a Schedule to the ³⁹[Madhya Pradesh Act] or Regulation in which the word occurs;
- (45) 'scheduled district' shall mean a 'Scheduled District' as defined in the scheduled districts Act 1874 (14 of 1874);
- (46) 'section' shall mean a s of the ⁴⁰[Madhya Pradesh Act] or Regulation in which the word occurs;
- (47) '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;
- (48) 'son', in the case of anyone whose personal law permits adoption, shall include an adopted son;
- ⁴¹[(48A) 'state government' shall mean the state government (as defined in the General Clauses Act 1897) of the Central Provinces or of the Central Provinces and Berar or of Madhya Pradesh ⁴²[as existing

32 This clause was omitted by Adaptation of Laws Order 1950.

33 This clause was omitted by Adaptation of Laws Order 1950.

34 Ibid.

35 Substituted by AO 1950.

36 These words and figures were substituted for the words and figures 'under the Government of India Act 1870', by the Adaptation of Laws Order 1937.

37 Added by AO 1956.

38 Substituted by AO 1960, in place of 'Bombay'.

39 Substituted by Adaptation of Laws Order 1950 for 'Provincial Act'.

40 Inserted by Adaptation of Laws Order 1950.

- immediately before the 1 November 1956 or of the State of Maharashtra⁴³ as formed by the provisions of Pt 2 of the States Reorganisation Act 1956, as the case may be];
- (49) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (50) '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;
- (51) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- ⁴⁴[(51A) 'vidarbha Region' shall mean the territories of the districts of Buldana, Akola, Amravati, Yeotmal, Wardha, Nagpur, Bhandara and Chanda which are transferred to the new State of Maharashtra⁴⁵ under cl (c) of s 8 of the States Reorganisation Act 1956;]
- (52) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (53) '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
- (54) 'year' shall mean a year reckoned according to the British calendar.

Table of Analogous Provisions

<i>Sub-section of CP Act, s 2</i>	<i>Sub-section of Bombay Act, s 3</i>	<i>Sub-section of CP Act, s 2</i>	<i>Sub-section of Bombay Act s 3</i>
(1)	(1)	(26)	(24)
(2)	(2)	(27)	(25)
(3)	(3)	(29)	(26)
(4)	(4)	(31)	(28)
(9)	(9)	(32)	(30)
(10)	(11)	(33)	(31)
(12)	(12)	(35)	(32)
(13)	(13)	(36)	(33)
(14)	(14)	(37)	(34)
(15)	(15)	(38)	(35)
(16)	(16)	(40)	(36)
(17)	(17)	(41)	(37)
(18)	(18)	(43)	(39)
(20)	(19)	(44)	(40)
(22)	(20)	(45)	(41)
		(45)	(41)
		(46)	(42)
		(47)	(44)
		(48)	(45)

43 Substituted by AO 1960 in place of 'Bombay'.

44 Added by AO 1956.

45 Substituted by AO 1960 in place of 'Bombay'.

<i>Sub-section of CP Act, s 2</i>	<i>Sub-section of Bombay Act, s 3</i>	<i>Sub-section of CP Act, s 2</i>	<i>Sub-section of Bombay Act s 3</i>
		(50)	(47)
		(51)	(48)
		(52)	(49)
		(53)	(50)
		(54)	(51)

GENERAL RULES OF CONSTRUCTION

3. Coming into Operation of ⁴⁶[Madhya Pradesh Act]—⁴⁷(1) Where any Madhya Pradesh Act is not expressed to come into force on a particular day, then—

- (a) in the case of a Madhya Pradesh 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*;
- (b) in the case of Madhya Pradesh 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 a ⁴⁸[Madhya Pradesh Act] shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

For comments, see Bombay General Clauses Act 1904, s 5.

4. Printing of Date on Which Act is Published After Having Received the Assent—In this Act and in every ⁴⁹[Madhya Pradesh Act], the date of such publication as is mentioned in s 3, sub-s (1), shall be printed above the title of the Act, and shall form part of the Act.

5. Effect of Repeal—Where any ⁵⁰[Madhya Pradesh 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

46 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

47 Substituted by the Adaptation of Laws Order 1950.

48 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

49 Ibid.

50. Ibid

- (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.

For comments, see Bombay General Clauses Act 1904, s 7.

⁵¹[5-A. Where any ⁵²[Madhya Pradesh 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.]

6. Revival of Repealed Enactments—In any ⁵³[Madhya Pradesh 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.

7. Construction of Reference to Repealed Enactments—Where any ⁵⁴[Madhya Pradesh Act] repeals and re-enacts, with or without modification, any provision of a former enactment, then 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.

For comments, see Bombay General Clauses Act 1904, s 9.

8. Commencement and Termination of Time—In any ⁵⁵[Madhya Pradesh 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'.

For comments, see Bombay General Clauses Act 1904, s 10.

9. Computation of Time—Where, by any ⁵⁶[Madhya Pradesh 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 opened:

51 This section was inserted by CP and Berar Act No 9 of 1947, s 2.

52 Ibid.

53 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

54 Ibid.

55 Ibid.

56 Ibid.

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act 1908 (9 of 1908) applies.

For comments, see Bombay General Clauses Act 1904, s 11.

10. Measurement of Distances—In the measurement of any distance for the purpose of any ⁵⁷[Madhya Pradesh 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.

11. Duty to be Taken 'Pro rata' in Enactments—here, by any enactment now in force or hereafter to be in force, any duty or 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.

12. Gender and Number—In all ⁵⁸[Madhya Pradesh Act], unless there is anything repugnant in the subject or context—

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

For comments, see Bombay General Clauses Act 1904, s 13.

POWERS AND FUNCTIONARIES

⁵⁹[13. Powers Conferred to be Exercisable From Time to Time]—Where, by any ⁶⁰[Madhya Pradesh Act] any power is conferred then, unless a different intention appears, that power may be exercised from time to time as occasion requires.]

For comments, see Bombay General Clauses Act 1904, s 14.

14. Power to Appoint to Include Power to Appoint 'Ex officio'—Where by any ⁶¹[Madhya Pradesh 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.

15. Power to Appoint to Include Power to Suspend or Dismiss—Where, by any ⁶²[Madhya Pradesh 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.

For comments, see Bombay General Clauses Act 1904, s 16.

57 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

58 Ibid.

59 This section was substituted by s 2 of the CP and Berar General Clauses (Amendment) Act 1941 (1 of 1941).

60 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

61 Ibid.

62 Ibid.

16. Substitution of Functionaries—In any ⁶³[Madhya Pradesh 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.

For comments, see Bombay General Clauses Act 1904, s 17.

17. Successors—In any ⁶⁴[Madhya Pradesh 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.

18. Official Chiefs and Subordinates—In any ⁶⁵[Madhya Pradesh Act] it shall be sufficient, for the purpose of expressing that a law relating 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.

For comments, see Bombay General Clauses Act 1904, s 19.

⁶⁶[**18-A. Substitution of Certain Designation**—Whenever an expression mentioned in column (1) of the table hereunder printed occurs in any law for the time being in force in the Vidarbha region of the State of ⁶⁷[Maharashtra] there shall be substituted therefor the expression set opposite to it in column (2) of the said table, and there shall also be made in any sentence in which the expression occurs such consequential amendments as the rules of grammar may require.

TABLE

Col (1)	Col (2)
Deputy Commissioner Assistant Commissioner or Assistant Commissioner of the first grade or second grade.	Collector. Assistant or Deputy Collector

PROVISIONS AS TO ORDERS, RULES, ETC, MADE UNDER ENACTMENT

19. Construction of Orders, etc, Issued Under ⁶⁸[Madhya Pradesh Act]—Where, by any ⁶⁹[Madhya Pradesh Act], a power to issue any order scheme, rule, bye-law, notification or form is conferred, then expressions used in the order scheme, rule, bye-law, notification or form it is made after the commencement of this Act, shall unless there is anything repugnant in the

63 Ibid.

64 Ibid.

65 Ibid.

66 Added by Bombay Act 8 of 1958.

67 Substituted by AO 1960 in place of 'Bombay'.

68 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

69 Ibid.

subject or context, have the same respective meanings as in the Act conferring the power.

For comments, see Bombay General Clauses Act 1904, s 20.

20. Power to Make to Include Power to Add to, Amend, Vary or Rescind Orders, Etc—Where, by any ⁷⁰[Madhya Pradesh Act] a power to 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 issued.

For comments, see Bombay General Clauses Act 1904, s 20.

21. Making of Rules or Bye-Laws and Issuing of Orders Between Publication and Commencement of ⁷¹[Madhya Pradesh Act]—Where by any ⁷²[Madhya Pradesh Act], which is not to come into operation ⁷³[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 ⁷⁴[after the passing of the Act], but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

For comments, see Bombay General Clauses Act 1904, s 22.

22. Provision Applicable to Making of Rules or Bye-laws After Previous Publication—Where, by any ⁷⁵[Madhya Pradesh 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 ⁷⁶[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;

70 Ibid.

71 Ibid.

72 Ibid.

73 These words were substituted by Adaptation of Laws Order 1937.

74 Ibid.

75 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

76 Substituted by Adaptation of Laws Order 1950, for 'Central Government or as the case may be, the provincial government'.

- (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.

Comments

For comments, see Bombay General Clauses Act 1904, s 24.

MISCELLANEOUS

23. 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 ⁷⁷[Madhya Pradesh Act] with or without modification, then, unless it is otherwise expressly provided, any appointment, order scheme, rule, bye-law, notification 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 order scheme, rule, bye-law, notification or form made or issued under the provisions so re-enacted.

For comments, see Bombay General Clauses Act 1904, s 25.

24. Recovery of Fines—Sections 63 to 70 of the Indian Penal Code (45 of 1860) and the provisions of the Code of Criminal Procedure 1898 (5 of 1898), 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 ⁷⁸[Madhya Pradesh Act] or any rule or bye-law made under any ⁷⁹[Madhya Pradesh Act] unless the Act, rule or bye-law contains an express provision to the contrary.

25. Provisions as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence 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.

For comments, see Bombay General Clauses Act 1904, s 27.

26. Meaning of Service by Post—Where any ⁸⁰[Madhya Pradesh Act] authorises or requires any document to be served by post whether the expression

77 Ibid.

78 Substituted by Adaptation of Laws Order 1950, for 'Provincial Act'.

79 Ibid.

80 Ibid.

'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.

Comments

For comments, see Bombay General Clauses Act 1904, s 28.

27. Citation of Enactments—(1) in any ⁸¹[Madhya Pradesh Act], and in any rule, bye-law, instrument or document made under, or with reference to, any ⁸²[Madhya Pradesh 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 ⁸³[Madhya Pradesh 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.

⁸⁴[28. 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 of the Government of India Act 1935, as they apply in relation to Madhya Pradesh 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 Madhya Pradesh 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 paragraph 5 of the Fifth Schedule to the Constitution as they apply in relation to Madhya Pradesh Acts made by the State Legislature:

Provided that cl (b) of sub-s (1) of s 3 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*.

81 Ibid.

82 Ibid.

83 Ibid.

84 Substituted by Adaptation of Laws Order 1950.

APPENDIX X

The Delhi General Clauses Act as Adapted From West Bengal General Clauses Act

SRO 862, 31 May 1951—In exercise of the powers conferred by s 2 of the Pt C States (Laws) Act 1950 (30 of 1950), the Central Government hereby extends to the State of Delhi, the Bengal General Clauses Act 1899 (Bengal Act 1 of 1899) as at present in force in the State of West Bengal, subject to the following modifications, namely—

- (1) References to a Bengal or a West Bengal Act shall be construed as references to the Bengal Act or West Bengal Act as extended to the State of Delhi.
- (2) In s 3, for cl (8), the following clause shall be substituted;
 - (8) 'Collector' means the Collector of Delhi.
- (3) Section 6 shall be omitted.
- (4) In s 23—
 - (a) the words 'on the passing thereof' shall be omitted;
 - (b) for the words 'after the passing of the Act', the words 'after the extension of the Act to the State of Delhi' shall be substituted.

APPENDIX XI

State of Gujarat

Note—The State of Gujarat has been newly formed, vide Bombay Reorganisation Act 1960 (11 of 1960). It has not so far its independent General Clauses Act, therefore Bombay General Clauses Act 1904 (1 of 1904) is applicable to the State of Gujarat [see Bombay General Clauses Act 1904 (1 of 1904)].¹ The amendment made in the Bombay General Clauses Act 1904, as applicable to the State of Gujarat are as under:

²The Bombay General Clauses Act 1904

(BOMBAY ACT 1 OF 1904)

Amendments applicable to the State of Gujarat

Section 1A 'State of Bombay' shall stand unmodified.

New s 1B. After s 1A, insert the following:

1-B. Extention of Application of Act to Acts, Rules, etc, of State of Gujarat—

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 State of Gujarat passed, made or promulgated on or after the 1 May 1960, and such provisions of this Act as relate to any notification, order, scheme, rule, bye-law or form shall also 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 the 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.

1 Bombay Reorganisation Act 1960, Government of Gujarat.

2 Ibid.

Section 3. (1) After 'Bombay Acts', insert 'or Gujarat Acts.'

- (2) In cl (5), 'Governor of Bombay' and 'State of Bombay' shall stand unmodified.
- (3) After cl (5), insert the following:
 - (6) 'Bombay area of the state of Gujarat' shall mean the area of State of Gujarat excluding the Saurashtra area, and the Kutch area of the State'.
- (4) Omit cl (10).
- (5) In cl 11, 'in the city of Bombay, the Collector of Bombay and elsewhere'.
- (6) For cl (21), substitute the following:
 - (21) 'Gujarat Act', shall mean an Act made on or after the 1 May 1960, by the Legislature of the State of Gujarat under the Constitution.
- (7) In cl (22), after 'Bombay Presidency', insert 'and after the 1 May 1960, in the part of the State of Gujarat.
- (8) Omit cl (23).
- (9) In cl (25A)—
 - (a) 'State of Bombay' shall stand unmodified; and
 - (b) after '1956', insert the following:

and after the 1 May 1960, the said territories which form part of the State of Gujarat shall be known as Kutch area of the State of Gujarat.

- (10) In cl (35A), 'State of Bombay' shall stand unmodified.
- (11) In cl (39A), 'State of Bombay' shall stand unmodified; and after '1956', insert 'and after the 1 May 1960, the said territories which form part of the State of Gujarat shall be known as the Saurashtra area of the State of Gujarat.
- (12) In cl (46A), 'State of Bombay' shall stand unmodified.
- (13) After cl (46A), insert the following, namely—
- (46AA) 'State of Gujarat' shall mean the territories which on the 1 May 1960, are comprised in the State of Gujarat under s 3 of the Bombay Reorganisation Act 1960.
- (14) In cl (46B), 'State of Bombay' shall stand unmodified.
- (15) Omit cl (48A).

Section 4—(1) After 'Affidavit', insert 'Bombay area of the State of Gujarat'.

- (2) Omit 'City of Bombay' and 'Greater Bombay.'
- (3) Omit 'Hyderabad area of the State of Bombay.'
- (4) After 'State of Bombay', insert 'State of Gujarat.'
- (5) Omit 'Vidarbha Region or Madhya Pradesh of Vidarbha of the State of Bombay'.
- (6) The words 'State of Bombay' wherever they occur in this section as so amended shall stand unmodified.

Section 31—Throughout ss 5-31 (both inclusive) including the marginal notes thereto, except in cl (1) of sub-s (1) of s 5, sub-s (2) of s 8, sub-s (2) of s 10, sub-s (2)

of s 17, sub-s (2) of s 18, sub-s (2) of s 19 and cl (a) of s 31 make the following amendments:

- (1) After 'Bombay Act', insert 'or Gujarat Act'.
- (2) After 'Bombay Acts', insert 'or Gujarat Acts'.

Section 31—In cl (a), 'Governor of Bombay' shall stand unmodified.

APPENDIX XII

The Jammu and Kashmir General Clauses Act Samvat 1977

(ACT NO 20 OF SAMVAT 1977)

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No 8372, dated 11 September, 1920 and State Council Resolution No 1, dated the 8 April 1925 (Notification No 14L /81)]

An Act for Shortening the Language Used in Laws in Force in the State and for Other Purposes

WHEREAS it is expedient to shorten the language used in laws in force in the State and to make certain provisions relating to such laws; it is hereby enacted as follows:

PRELIMINARY

1. ¹[Omitted].
2. ²[Omitted].

GENERAL DEFINITIONS

3. Definitions—In this Act, and in all enactments now in force or hereafter to be introduced, 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 ³Ranbir Dand Bidhi;
- (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 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 the member of the Faculty of Advocates in Scotland;

1 Short title, extent and commencement are omitted by Act 4 of 1977.

2 Ibid.

3 Ranbir Penal Code.

- ⁴{(5) 'British India' shall mean, as respects the period before the commencement of Pt 3 of the Government of India Act 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor-General of India or through any Governor or officer subordinate to the Governor-General of India, and as respects any period after that date and before the date of the establishment of the Dominion of India, means all territories for the time being comprised within the Governor's Provinces and the Chief Commissioner's Provinces, and as respects any period after the date of the establishment of the Dominion of India and Promulgation of the Adaptation of Laws Order 2008, all territories comprised in a State specified in Pt A of the First Schedule to the Constitution of India and the States of Ajmer, Coorg and Delhi;
- (6) 'British possession' shall mean any part of His Majesty's dominions exclusive of the United Kingdom, and, where part 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 British possession;
- (7) 'chapter' shall mean a chapter of the Act or Regulation in which the words occur;
- ⁵(7A) [Repealed];
- ⁶{(8) 'collector' shall mean the Deputy Commissioner of a district];
- (9) 'commencement' used with reference to an Act or Regulation shall mean the day on which the Act or Regulation comes into force;
- (10) 'District Judge' shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (11) '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;
- ⁷(11A) 'enactment' shall include any provision contained in any Act];
- (12) 'father', in the case of any one whose personal law permits adoption, shall include an adoptive father;
- ⁸{(13) 'financial year' shall mean the year commencing on the 1 April;]
- (14) 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;
- ⁹{(15) 'government' or 'the government' shall mean 'council' as defined in The Jammu and Kashmir Constitution Act, 1996];

4 Clause (5) subs by ALO 2008.

5 Sub-section (7A) [definition of 'Chief Judge'] repealed; vide notification no 3-L85, published in *Government Gazette*, dated 8 Bhadon 1985.

6 Clause (8) subs by Act 3 of 2008.

7 Clause (11-A) was added by A L O, 2008.

8 Substituted by s 2 of Act 21 of 2011 with effect from 1 April 1955.

9 Substituted (15) substituted vide Act 10 of 2010, published in the *Government Gazette*, dated 15 Bhadon 1996.

- ¹⁰[(16) 'Government of India' shall—
- (a) in relation to anything done before the commencement of the Constitution of India, mean the Governor-General or the Governor-General-in-Council as the case may be; and
 - (b) in relation to anything done or to be done after the commencement of the Constitution of India mean the President];
- (17) 'His Majesty' or 'the King' shall include his successors;
- ¹¹(18) [Repealed];
- (19) '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;
- (20) 'imprisonment' shall mean imprisonment of either description as defined in the ¹²Ranbir Dand Bidhi;
- ¹³[(21) 'India' shall mean—
- (a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler and the tribal areas;
 - (b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution of India all the territories for the time being included in that Dominion; and
 - (c) as respects any period after the commencement of the Constitution of India, all territories for the time being comprised in the territory of India;]
- ¹⁴[(21A) 'Indian state' shall mean—
- (a) as respects any period before the commencement of the Constitution of India any territory which the Government of India recognised as such after a state; and
 - (b) as respects any period after the commencement of the Constitution of India, any territory comprised in a State for the time being specified in Pt B of the First Schedule to the said Constitution or comprised in the States of Bhopal, Bilaspur, Cooch Behar, Himachal Pradesh, Kutch, Manipur and Tripura];
- (22) 'local authority' shall mean a municipal committee, or other authority legally entitled to, or entrusted by the government with, the control or management of municipal or local fund;
- (23) '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;

10 Substituted by ALO 2008.

11 Sub-section (18) [definition of 'High Court'] repealed, vide Notification No 3-L85, published in the *Government Gazette*, dated 8 Bhadon 1985.

12 Ranbir Penal Code.

13 Substituted by ALO 2008.

14 Added by *ibid*.

- ¹⁵(24) 'Minister' shall include the Chief Justice and a Judge of the High Court of Judicature;
- (25) 'month' shall mean a month reckoned according to the ¹⁶[Gregorian calendar];
- (26) 'movable property' shall mean property of every description, except immovable property;
- (27) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (28) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (29) 'part' shall mean a part of the Act or Regulation in which the word occurs;
- ¹⁷(29A) 'Part A State' shall mean a State for the time being specified in Pt A of the First Schedule to the Constitution, 'Pt B State' shall mean a State for the time being specified in Pt B of that Schedule and 'Pt C State' shall mean a State for the time being specified in Pt C of that Schedule or a territory for the time being administered by the President under the Provisions of art 243 of the Constitution];
- (30) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- ¹⁸(31) 'Political Agent' shall mean—
- (a) in relation to any territory outside India, the Principal Officer, by whatever name called, representing the Government of India in such territory; and
 - (b) in relation to any territory within India to which the Indian Act or Regulation containing the expression does not extend any officer appointed by the Government of India to exercise all or any of the powers of a Political Agent under that Act or Regulation];
- (32) 'public nuisance' shall mean a public nuisance as defined in the ¹⁹[Ranbir Dand Bidhi];
- (33) 'registered', used with reference to a document, shall mean registered in the State under the law for the time being in force for the registration of documents;
- (34) '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;
- (35) 'Schedule' shall mean a Schedule to the Act or Regulation in which the word occurs;
- (36) 'section' shall mean a section of the Act or Regulation in which the word occurs;

15 Sub-section (24), substituted vide Notification No 3-L85, published in *Government Gazette*, dated 8 Bhadon 1985.

16 Substituted by s 2 of Act 21 of 2011, with effect from 1 April 1955.

17 Added by A L O, 2008.

18 Substituted by *ibid.*

19 Ranbir Penal Code.

- (37) 'boat' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (38) '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;
- (39) 'son', in the case of any one whose personal law permits adoption, shall include an adopted son;
- ²⁰[(39A) 'the State' means the State of Jammu and Kashmir];
- (40) 'sub-section' means a sub-section of the section in which the word occurs;
- (41) 'sweat' 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;
- (42) 'vessel' shall include any boat or any other description of vessel used in navigation;
- (43) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (44) 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
- (45) 'year' shall mean a year reckoned according to the ²¹[Gregorian calendar].
4. [Omitted].

GENERAL RULES OF CONSTRUCTION

5. [Omitted]

6. Effect of Repeal—Where this Act, or any Regulation 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 imposed as if the repealing Regulation had not been passed.

²⁰ Substituted by Act 10 of 2010.

²¹ Substituted by s 2 of Act 21 of 2011 with effect from 1 April 1955.

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

8. Construction of References to Repealed Enactments—Where this Act, or any Act made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references 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.

9. Commencement and Termination of Time—In any 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'.

10. Computation of Time—Where, by any 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 applies.

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

12. 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, 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.

13. Gender or Number—In all Acts and Regulations, 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.

POWERS AND FUNCTIONARIES

14. Powers conferred on the Government to be exercisable from time to time—Where, by any Act made after the commencement of this Act, any power is conferred on the government, then that power may be exercised from time to time as occasion requires.

15. Power to Appoint to include power to appoint 'ex officio'—Where, by any Act or Regulation, 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 the 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 Act or Regulation, 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—In any 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 function, or that of the officer by whom the functions are commonly executed.

18. Successors—In any 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 relations to the functionaries or corporations.

19. Official Chiefs and Subordinates—In any 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.

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

20. Construction of Orders, etc, Issued Under Enactments—Where, by any Act, or Regulation, a power to issue any notification, order, scheme, rule, form, or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law, 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 or Regulation conferring the powers.

21. Power to Make, to Include Power to Add to, Amend, Vary or Rescind, Orders, Rules or Bye-laws—Where, by any Act or Regulation, 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 conditions (if any) to add to, amend, vary or rescind any notifications, orders, rules, or bye-laws so issued.

22. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactment—Where, by any Act or Regulation, which is not to come into force 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 Regulation, 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 or Regulation, then that power may be exercised at any time after 'the passing of the Act or Regulation: but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

23. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication—Where, by any Act or Regulation, 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 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 ²²[the government] prescribed;
- (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 *Government 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 rules or bye-laws have been duly made.

24. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted—Where, any Act or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, ²³[rules] form or bye-law made or issued under the repealed Act or Regulation, 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 and when any Act or Regulation which, by a notification, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section.

22 Subs for 'His Highness' by Act 7 of 2001.

23 Added by Corrigendum dtd 2 February 1956.

MISCELLANEOUS

25. **Recovery of Fines**—²⁴[Sections 50–56A] of the Ranbir Dand Bidhi 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 Act, Regulation, rule or bye-law unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.
26. **Provision as to Offence Punishable Under Two or More Enactments**—Where an Act, or omission constitutes an offence 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.
27. **Meaning of Service by Post**—Where any 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, 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.
28. **Citation of Enactments**—(1) In any Act or Regulation, and in any rule, bye-law, instrument or document, made under or with reference to any such Act or Regulation, 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, 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 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.
29. **Saving of Previous Enactments, Rules and Bye-laws**—The provisions of this Act respecting the construction of Act, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rules or bye-laws made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, rule or bye-law made after the commencement of this Act.
30. **Regulation**—In this Act the expression Act or Regulation, wherever it occurs, and the word 'Act' in clauses²⁵[(7), (9), (29), (35) and (36)] of s 3 and in s 25 shall be deemed to include an Ordinance made and promulgated by His Highness²⁶[or the *Sadar-i-Riyasat*].

²⁴ Sections 63–70 of the Ranbir Penal Code.

²⁵ In s 30, words, figures and brackets substituted for '(9), (12), (38), (48) and (50)', vide Act 11 of 1957.

²⁶ Inserted by Act 10 of 2010.

APPENDIX XIII

*The*¹*[Mysore] General Clauses Act 1899*

²[MYSORE] ACT NO 3 OF 1899]

(Passed on 3 July 1899)

[As amended by Acts VII of 1949, X of 1950 and XII of 1953]

An Act for further shortening the language used in ³[Mysore Acts] and for other purposes.

WHEREAS it is expedient further to shorten the language used in ⁴[Mysore Acts], and to make certain other provisions relating to those enactments; Her Highness the Maharani-Regent is pleased to enact as follows:

PRELIMINARY

1. Short Title and Commencement—⁵[(1) This Act may be called the ⁶[Mysore] General Clauses Act 1899.]

(2) It shall come into force at once.

2. ⁷[****]

GENERAL DEFINITIONS

3. Definitions—In this Act, and in all ⁸[Mysore 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;

1 Substituted by Act 12 of 1953.

2 Ibid.

3 Ibid.

4 Ibid.

5 Sub-section (1) substituted by Act 10 of 1950.

6 Substituted by Act 12 of 1953.

7 Section 2 and Schedule omitted by Act 12 of 1953.

8 Substituted by Act 12 of 1953.

- (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 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;
- ⁹(5) 'British India' shall mean, as respects the period before the commencement of Pt 3 of the Government of India Act 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor General of India or through any Governor or officer subordinate to the Governor-General of India, and as respects any period after that date and before the date of the establishment of the Dominion of India means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces];

¹⁰['Central Act' shall mean an Act of Parliament and shall include,

- (a) an Act of the Dominion Legislature or of the Indian Legislature passed before commencement of the Constitution; and
- (b) an Act made before such commencement by the Governor General in Council or the Governor-General acting in legislative capacity;
- (5b) 'Central Government' shall—
- (a) in relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General in Council, as the case may be; and shall include, (i) in relation to functions entrusted under sub-s (1) of s 124 of the Government of India Act 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section; and (ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-s (3) of s 94 of the said Act; and
- (b) in relation to anything done or to be done after the commencement of the Constitution, mean the President, and shall include (i) in relation to functions entrusted under cl (1) of art 258 of the Constitution to the Government of a State, the state government acting within the scope of the authority given to it under that clause; ¹¹(ii) in relation to the administration of a Pt C State, before the commencement of the Constitution (Seventh Amendment) Act 1956 the Chief Commissioner or the Lieutenant

⁹ Substituted by Act 12 of 1953.

¹⁰ Inserted by Act 12 of 1953.

¹¹ Substituted by Mysore Adaptation of Laws Order 1956.

- Governor or the government of a neighbouring State or another authority acting within the scope of the authority given to him or it under art 239 or art 243 of the Constitution, as the case may be;¹²[and (iii) in relation to the administration of a Union Territory, the administrator thereof acting within the scope of the authority given to him under art 239 of the Constitution];
- (6) 'chapter' shall mean a chapter of the Act in which the word occurs;
- ¹³(7) 'Chief Controlling Revenue Authority' or 'Chief Revenue Authority' shall mean such authority as the state government may, by notification in the *Official Gazette*, appoint;]
- ¹⁴[(7a) 'city of Bangalore' shall mean such local area as is declared from time to time to be the City of Bangalore under any Act for the time being in force relating to the municipal affairs of such City;]
- (8) 'commencement', used with reference to an Act, shall mean the day on which the Act comes into force;
- ¹⁵[(8a) 'Constitution' shall mean the Constitution of India.
- (8b) '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;]
- (9) 'Deputy Commissioner' shall mean the chief officer in charge of the revenue-administration of a district;
- (10) 'District Judge' shall mean the Judge of principal civil court of original jurisdiction ¹⁶[but shall not include the High Court in the exercise of original civil jurisdiction;]
- ¹⁷[(10A) 'Divisional Commissioner' shall mean the Divisional Commissioner of Division appointed under the ¹⁸[Karnataka Land Revenue Act 1964;]
- (11) '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;
- (12) 'enactment' shall include,—
- (a) a ¹⁹[Mysore Act];
- (a1) a Karnataka Act;
- (b) an Act of the Governor-General of India in Council or a local legislature in India, introduced as law into Mysore Area;
- (c) a body of rules (other than rules made in exercise of a power conferred by any Act or by any such Act as aforesaid) prescribed as law in Mysore;²⁰

12 Inserted by Mysore Adaptation of Laws Order 1956.

13 Substituted by Act 12 of 1953.

14 Added by Act 12 of 1953.

15 Substituted by Mysore Adaptation of Laws Order 1956.

16 Added by Act 12 of 1953.

17 Clause (10A) inserted by Mysore Adaptation of Laws Order 1956.

18 Substituted by Karnataka Adaptations of Laws Order 1973.

19 Substituted by *ibid*

20 Added by Act 12 of 1953.

- ²¹[(c1) a Bombay Act as defined in cl (5) of s 3 of the Bombay General Clauses Act 1904 (Bombay Act 1 of 1904);
- (c2) a Coorg Act or Regulation as in force in the Coorg district;
- (c3) a Hyderabad law as defined in cl (1a) of s 2 of the General Clauses Act 1308F (Hyderabad Act 2 of 1308 Fasli);
- (c4) a Madras Act as defined in cl (17a) of s 3 of the Madras General Clauses Act 1891 (Madras Act 1 of 1891)); and
- (d) any provision contained in ²²[any Mysore Act or Karnataka Act] or in any such Act or body of rules as aforesaid ²³[or in any Bombay Act, Coorg Act, Hyderabad Law or Madras Act];
- (13) 'father', in the case of any one whose personal law permits adoption, shall include an adoptive father;
- ²⁴[(13A) 'financial year' or 'Official year' shall mean the year commencing on the 1 April;

Provided that in respect of the financial or official year of 1949-50, 'financial year' or 'official year' shall mean the period commencing on the 1 July 1949 and ending with the thirty 1 March 1950];

- (14) ²⁵['revenue year'] shall mean the year commencing on the 1 July;
- (15) '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;
- ²⁶[(16) 'government' or 'the Government'] shall—
- (a) in relation to anything done before the commencement of the Constitution, mean the authority or person authorised at the relevant date to administer executive government in Mysore;
- (b) in relation to anything done or to be done after the commencement of the Constitution include both the Central Government and the state government].
- ²⁷[(16a) 'government securities' shall mean securities of the Central Government or of any state government but in any Mysore Act made before the commencement of the Constitution shall not include securities of the government of any state other than the State of Mysore;
- (16b) 'High Court' used with references to civil proceeding shall mean the highest civil court of appeal (not including the Supreme Court) in the State of Mysore];
- (17) '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;

21 Inserted by Act 10 of 1950.

22 The word 'revenue year' subs for certain words by Act 10 of 1950.

23 Inserted by Act 10 of 1950.

24 Inserted by Act 10 of 1950.

25 Ibid.

26 Substituted by Act 12 of 1953.

27 Inserted by Act 12 of 1953.

- (16) 'imprisonment' shall mean imprisonment of either description as defined in Indian Penal Code;
- ²⁸[(18a) 'India' shall mean,—
- (a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of his majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal area;
 - (b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and
 - (c) as respects any period after the commencement of the Constitution, all territories for the time being comprised in the territory of India];
- (19) 'judicial proceeding' shall mean any proceeding in the course of which evidence is, or may be legally taken;
- ²⁹[(19a) 'Karnataka Act' shall mean an Act of the Legislature of the State of Karnataka passed under the Constitution after 1 November 1973 and shall include—
- (i) an Act of the Legislature of the State of Mysore passed under the Constitution after 1 November 1955;
 - (ii) the Karnataka General Clauses Act 1899 (Karnataka Act 3 of 1899);
 - (iii) the Karnataka High Court Act 1884 (Karnataka Act 1 of 1884);
- (19b) 'Karnataka' shall mean all the territories for the time being comprised in the State of Karnataka;]
- (20) 'local authority' shall mean a municipal committee, district board, ³⁰[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;

Comments

The District School Board is an authority legally entitled to the control and management of the Primary Education Fund, which is a local fund, therefore, the Board comes within definition of local authority under s 3(31) of Mysore General Clauses Act.³¹

- (21) '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;
- (22) 'month' shall mean a month reckoned according to the British calendar;

Comments

Where the court by order dated 30 September 72 directed the tenant to pay arrears of rent 'within one month' from the date of the order, the payment made on 31 October 1972 was held within time on the ground that the date of the order has to be excluded from computation.³²

28 Ibid.

29 Inserted by Karnataka Adaptation of Laws Order 1973.

30 Inserted by Mysore Adaptation of Laws Order 1956.

31 *Chameerappa v State of Mysore* (1968) 1 Mys LJ 300, 304.

32 *Laxmayya v Harichandra* (1974) 2 Kant LJ 369-70.

- (23) 'Moveable property' shall mean property of every description, except Immovable property;
- (24) 'Mysore' shall mean all the ³³[territories for the time being comprised in the ³⁴[State of Mysore] before 1 November 1973];
- ³⁵[(24A) 'Mysore Act' shall mean ³⁶[***]
- (a) an Act of the Legislature of the State of Mysore passed under the Constitution before the commencement of the Constitution (Seventh Amendment) Act 1955;
 - (b) an Act of the Legislature of the State of Mysore passed before the commencement of the Constitution; and
 - (c) an Act made before such commencement of the Constitution by the Maharaja of Mysore;]
- ³⁷[but does not include the Karnataka General Clauses Act 1899 (Karnataka Act 3 of 1899) and the Karnataka High Court Act 1884 (Karnataka Act 1 of 1884);
- ³⁸[(24b) 'Notification' means a notification published in the *Official Gazette*];
- (25) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (26) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- ³⁹[(26a) '*Official Gazette*' or '*Gazette*' shall mean the Karnataka Gazette];
- (27) 'pa...' shall mean a part of the Act in which the word occurs;
- ⁴⁰[(27a) 'Part A State' shall mean a State for the time being specified in Pt A of the First schedule to the Constitution, ⁴¹[as in force before the commencement of state shall mean a state for the time being specified in Pt B of that Schedule and 'Pt C State' shall mean a State for the time being specified in Pt C of the Schedule or a territory for the time being administered by the President under the provisions of art 243 of the Constitution];
- (28) 'Person' shall include any company or association or body of individuals, whether incorporated or not;
- (29) 'Place' shall include also house, building, tent and vessel;
- ⁴²[(29A) 'Prescribed' means prescribed by rules made under the Act in which the word occurs];]

33 Substituted by Act 12 of 1953.

34 Substituted by *ibid*.

35 Clause (24A) inserted by Act 12 of 1953.

36 Omitted by the Karnataka Adaptations of Laws Order 1973.

37 Inserted by the Karnataka Adaptations of Laws Order 1973.

38 Deemed to have been substituted and inserted wef 1 November 1956, Karnataka Act 9 of 1956.

39 Inserted by Act No 12 of 1953.

40 Inserted by Act No 12 of 1953 and substituted by the Mysore Adaptations of Laws Order 1956.

41 Inserted by The Mysore Adaptation of Laws Order 1956.

42 Deemed to have been substituted and inserted wef 1 November 1956 by Karnataka Act 9 of 1956.

- (30) 'Public' shall include any class of the public or any community;
- (31) 'Public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;
- (32) 'registered' used with reference to a document shall—
- (a) as respects any period before the 1 April 1951, mean registered under the law for the time being in force in Mysore for the registration of documents;
 - (b) as respects any period from the 1 April 1951, mean registered in Pt A state Pt B or Pt C state under the law for the time being in force for the registration of documents;
- ⁴³[(32a) 'repeal' shall include deletion and omission.]
- ⁴⁴(33) [***];
- (34) 'rule' shall mean a rule made in exercise of a power conferred by any enactment ⁴⁵[and shall include a regulation made as a rule under any enactment:];
- (35) 'schedule' shall mean a Schedule to the Act in which the word occurs;
- (36) 'section' means a section of the Act in which the word occurs;
- (37) 'sign' with its grammatical variations and cognate expression, shall with reference to a person who is unable to write his name, include 'mark' with its grammatical variations and cognate expressions;
- (38) 'son' in the case of any one whose personal law permits adoption, shall include an adopted son:
- ⁴⁶[(38A) 'State'—
- (a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act 1956, shall mean a Pt 'A' state, a Pt 'B' state or a Pt 'C' state, and
 - (b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory;
- (38b) 'State Act' shall mean an Act passed by the Legislature of State established or continued by the Constitution;]
- ⁴⁷[(38c) 'state government'—
- (a) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act 1956, shall mean the Rajpramukh of the State of Mysore;]
 - (b) as respects anything done ⁴⁸[***] after the commencement of the Constitution (Seventh Amendment) Act 1956, ⁴⁹[and before 1 November 1973) shall mean the Governor of the State of Mysore];

43 Deemed to have been substituted and inserted wef 1 November 1956 by Act Karnataka Act 9 of 1985.

44 Omitted by Act No 12 of 1953.

45 Added by Act No 12 of 1953.

46 Inserted by Act 12 of 1953.

47 Clause (39c)(a) and (b) substituted by the Mysore Adaptation of Laws Order 1956.

48 Omitted by Karnataka Adaptation of Laws Order 1973.

49 Inserted by the Karnataka Adaptations of Laws Order 1973.

- ⁵⁰[(c) as respects anything done or to be done after 1 November 1973 shall mean the Governor of the State of Karnataka];
- (39) 'sub-section' shall mean a sub-section of section in which the word occurs;
- ⁵¹[(40) '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;
- (40a) 'Union territory' shall mean any Union territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule;
- (40b) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;]
- (41) 'Will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (42) 'writing', 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;
- (43) 'year' shall mean a year reckoned according to the British calendar.
- (44) 'Bombay Area' means the territory specified in cl (b) of sub-s (1) of s 7 of the State Reorganisation Act 1956 (Central Act 37 of 1956),
- (45) 'Coorg District' means the territory declared as such in sub-s (2) of s 7 of the State Reorganisation Act 1956 (Central Act 37 of 1956);
- (46) 'Hyderabad Area' means the territory specified in cl (c) sub-s (1) of s 7 of the States Reorganisation Act 1956 (Central Act 37 of 1956);
- (47) 'Madras Area' means the territory specified in cl (d) of sub-s (1) of s 7 of the States Reorganisation Act 1956 (Central Act 37 of 1956);
- (48) 'Mysore Area' means the territory specified in cl (a) of sub-s (1) of s 7 of the States Reorganisation Act 1956 (Central Act 37 of 1956).

4. Application of foregoing Definition to Previous Enactments—The definitions in s 3 of the following words and expressions, that is to say, 'affidavit', 'barrister', 'British India', ⁵²[High Court] 'District Judge', 'father,' 'immovable properly', 'imprisonment,' 'Magistrate,' 'movable property', 'oath', 'person', 'Section', 'son', 'swear', 'will', and 'year' apply also unless there is anything repugnant in the subject or context, to all enactments made after the 3 January 1868.

⁵³[4A. Definition of the expressions 'State' and 'State of Mysore' in certain enactments—With effect from the 1 November 1956. ⁵⁴[and upto 1 November 1973] in every enactment as defined in cl (12) of s 3, the expressions 'State' and, 'State of Mysore' (where those expressions refer to the territory or area), shall, unless the context otherwise requires, mean all the territories for the time being comprised in the State of Mysore.

⁵⁰ Ibid.

⁵¹ Inserted by The Mysore Adaptation of Laws Order 1956.

⁵² Substituted by Act 12 of 1930.

⁵³ Inserted by the Mysore Adaptation of Laws Order 1956.

⁵⁴ Inserted by Karnataka Adaptations of Laws Order 1973.

4B. Definition of expression 'State' and 'State of Karnataka' in certain enactments—With effect from the 1 November 1973 in every enactment as defined in cl (12) of s 3, the expressions 'State' and 'State of Karnataka' where they refer to the territory or area, shall, unless, the context otherwise requires, mean all the territories, for the time being comprised in the State of Karnataka.

GENERAL RULES OF CONSTRUCTIONS

5. Coming into Operation of Enactments—⁵⁵(1) ⁵⁶[Where any Mysore Act or Karnataka Act is not expressed to come into operation on a particular day, then—

- (i) in the case of a Mysore Act made before the commencement of the Constitution, it shall be deemed to have come into operation on the day on which it received the assent of the Maharaja.
 - (ii) in the case of Mysore Act made after the commencement of the Constitution and before the commencement of the Mysore General Clauses (Amendment) Act 1953, it shall be deemed to have come into operation on the day on which it received the assent of the Rajpramukh or the President, as the case may require;
 - (iii) in the case of a Mysore Act made after the commencement of the Mysore General Clauses (Amendment) Act 1953, ⁵⁷[and before the commencement of the Constitution (Seventh Amendment) Act 1956, shall be deemed to have come into operation] on the day on which the assent thereto of the Rajpramukh or the President, as the case may require, is first published in the *Official Gazette*.
 - ⁵⁸(iv) ⁵⁹In the case of Karnataka Act, 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, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.
- ⁶⁰(3) In every Act referred to in cl (iii) [or cl (iv) of sub-s (1), the date of publication in the *Official Gazette* shall be printed either above or below the title of the Act and shall form part of the Act].

6. Effect of Repeal—Where this Act or ⁶¹[any Mysore Act or Karnataka 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

⁵⁵ Sub-section (1) and cll (i), (ii) and (iii) substituted by the Act 12 of 1953.

⁵⁶ Substituted by Karnataka Adaptations of Laws Order 1973.

⁵⁷ Subs by the Mysore Adaptation of Laws Order 1956.

⁵⁸ Clause (iv) inserted by Mysore Adaptation of Laws Order 1956.

⁵⁹ Subs by Karnataka Adaptations of Laws Order 1973.

⁶⁰ Sub-section (3) added by Act 12 of 1953.

⁶¹ Subs by Act 12 of 1953.

- (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, obligations, 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

All proceedings already instituted or pending at the time of repeal, may be continued and disposed off as if the Act has not lapsed.⁶²

The right referred to in s 6(c) is a right acquired or accrued under the repealed enactment and the legal proceeding, investigation or remedy referred in s 6(e) is also in respect of such already accrued or acquired right. If the investigation or legal proceeding is not in respect of a right but only to determine whether some right should or should not be given then such investigation or legal proceeding is not saved by s 6.⁶³

⁶⁴[6-A. Repeal of Act making Textual Amendment in an Act—Where ⁶⁵[any Mysore Act or Karnataka Act] made after the commencement of this Act repeals any enactment by which the text of any Act was amended by the express omission, insertion or substitution of any matter, then, unless 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.]

7. Revival of Repealed Enactments—(1) in ⁶⁶[any Mysore Act or Karnataka 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 enactments made after the 3 January 1868.

Comments

Acquisition proceedings started under Mysore Land Acquisition Act 1894 stood regulated by s 27 of city of Bangalore Improvement Act 1945 even after repeal of said 1894 Act by Mysore Act 17 of 1961 in the light of s 8 of Mysore General Clauses Act.⁶⁷

8. Construction of References to Repealed Enactments—Where this Act, or [any Mysore Act or Karnataka Act] made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the

62 *Lakshmi Hardware v GV Srikantaya* (1983) 2 Kant LJ 161, 169.

63 *Swastik Enterprises v Distt Magistrate* (1976) 1 Kant LJ 100-01.

64 Section 6A inserted by Act 7 of 1949.

65 Subs by Karnataka Adaptations of Laws Order 1973.

66 See *Ibid.*

67 *M Maniklal v State of Mysore* (1967) 2 Kant LJ 239, 245.

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—(1) In ⁶⁸[any Mysore Act or Karnataka 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 enactments made after the 3 January 1868.

10. Computation of Time—Where, by ⁶⁹[any Mysore Act or Karnataka 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 or 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 ⁷⁰[Indian Limitation Act 1908] applies.

11. Measurement of Distances—In the measurement of any distance, for the purposes of ⁷¹[any Mysore Act or Karnataka Act] made after the commencement of this Act that distance shall, unless different intention appears, be measured in a straight line on horizontal plane.

12. 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 lesser quantity.

13. Gender and Number—In all enactments, 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.

POWERS AND FUNCTIONARIES

14. Powers Conferred to be Exercisable from time to time—Where, by ⁷²[any Mysore Act or Karnataka Act] made after the commencement of this Act, any power is conferred ⁷³[***] then that powers may be exercised from time to time as occasion requires.

68 Subs by Karnataka Adaptations of Laws Order 1973.

69 Ibid.

70 Substituted Act 12 of 1953.

71 Substituted by Karnataka Adaptations of Laws Order 1973.

72 Ibid.

73 The words 'on the government' omitted by Act 12 of 1953.

Comments

Deputy Commissioner, who is empowered to specify a Headquarter for area declared Mandal under Karnataka ZP, TPS, MPNP Act 1983 has the power to alter the headquarter as and when the occasion arises in view of provisions in s 14 of Karnataka General Clauses Act.⁷⁴

15. Power to Appoint to Include Power to Appoint *ex officio*—Where, by any enactment, 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 enactment, power to make any appointment is conferred, then a unless a different intention appears, the authority having,⁷⁵[for the time being] power to make the appointment shall also have power to suspend or dismiss any⁷⁶[Person appointed whether by itself or any other authority] in exercise of that power.

Comments

The power of appointment cannot be equated with power to select candidates for admission, as such cancellation of selection once made cannot be justified under s 16 of Mysore General Clauses Act.⁷⁷

17. Substitution of Functionaries—(1)⁷⁸[any Mysore Act or Karnataka 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.

(2) This section applies also to all enactments made after the 3 January 1868.

18. Successors—(1) In⁷⁹[any Mysore Act or Karnataka 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 enactments made after the 3 January 1868.

19. Official Chiefs and Subordinates—(1) In⁸⁰[any Mysore Act or Karnataka 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 enactments made after the 3 January 1868.

74 *BN Shankarappa v Uthapur Srinivas* AIR 1992 SC 836, 839.

75 Inserted by Act 12 of 1953.

76 Substituted by Act 12 of 1953.

77 *KR Shivadatta v Selection Committee* (1972) 1 Mys LJ 5, 8.

78 Substituted by Karnataka Adaptation of Laws Order 1973.

79 *Ibid.*

80 Substituted by Karnataka Adaptation of Laws Order 1973.

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

20. Construction of Orders, etc, Issued Under Enactments—Where, by any enactment, a power to issue any ⁸¹[notification], order, scheme, rule, form or bye-law is conferred, then expressions used in the ⁸²[notification], order, scheme, rule, form or bye-law, 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 enactment conferring the power.

21. Power to Make to Include Power to Add, to Amend, Vary or Rescind Notifications, Orders, Rules or Bye-laws—Where, by any enactment, a power to [issue] ⁸³[notifications], orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to like sanction and conditions (if any), to add, to amend, vary or rescind any ⁸⁴[notifications] orders, rules or bye-laws so ⁸⁵[issued].

Comments

Tehsildar has no power to cancel the notification fixing the dates of events for election after the process of election started under Karnataka Agricultural Produce Market (Regulation) Act 1966. The shelter of s 21 of Mysore General Clauses Act is not available to such cases.⁸⁶

22. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactment—Where, by any enactment which is not to come into force immediately on the passing thereof, power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the enactment, 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 enactment, then that power may be exercised at any time after the passing of the enactment: but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the enactment.

23. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication—Where, by any enactment 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 prescribes;

81 Inserted by Act 12 of 1953.

82 Substituted by Act 12 of 1953.

83 Ibid

84 Inserted by Act 12 of 1953.

85 Substituted by Act 12 of 1953.

86 *Tahsildar & RO v Shivaji Rao* (1976) 1 Kant LJ 272-73.

- (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 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.

Comments

The persons likely to be affected by the promulgation of rules must have reasonable opportunity under s 23 of Mysore General Clauses Act, to go through the draft rules and file objections.⁸⁷

24. 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 with or without modification, then, unless it is otherwise expressly provided, any ⁸⁸[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 ⁸⁹[made or] issued under the provisions so re-enacted, unless and until it is superseded by any ⁹⁰[appointment, notification] order, scheme rule, form or bye-law ⁹¹[made or] issued under the provisions so re-enacted.

Comments

Provisions of s 24 are applicable only when there is no inconsistency between the notification issued earlier and the subsequent legislative declaration.⁹²

MISCELLANEOUS

25. 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 enactment, rule or bye-law, unless the enactment, rule or bye-law contains an express provision to the contrary.

26. Provision as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence 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.

87 *Alli Sab Husain Sab v State of Karnataka* (1980) 2 Kant LJ 17, 19.

88 Inserted by Act 12 of 1953.

89 *Ibid.*

90 *Ibid.*

91 Inserted by Act 12 of 1953.

92 *Shailappa v Commercial Tax Officer* (1975) 2 Kant LJ 190–91.

27. Meaning of Service by Post—Where ⁹³[any Mysore Act] or Karnataka 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 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.

Comments

Where the indorsement on the registered post cover was to the effect that the addressee was not available at his residence, it is not possible to infer that the postman offered the registered post. Word 'sent' in s 27 includes word 'give' also.⁹⁴

28. Citation of Enactments—(1) In any enactment, and in any rule, bye-law, instrument or document, made under, or with reference to, any enactment, 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 ⁹⁵[any Mysore Act or Karnataka Act] made after the commencement of this Act, 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.

29. Saving for Previous Enactments, Rules and Bye-laws—The provisions of this Act respecting the construction of enactments, rules, or bye-laws made after the commencement of this Act, shall not affect the construction of any enactment, rule or bye-law made before the commencement of this Act, although the enactment, rule or bye-law is continued or amended by an enactment, rule or bye-law made after the commencement of this Act.

⁹⁶**30. Publication of Orders and Notification in the Official Gazette**—Where in ⁹⁷[any Mysore Act or Karnataka Act] or in any rule made under ⁹⁸[any Mysore Act, or Karnataka 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*.

31. 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, the government is empowered to extend or apply an Act or any provision of an Act, to any place in, or to any portion of the state, the government may, in any order extending or applying such Act or provisions or in any subsequent order,

93 Substituted by Karnataka Adaptations of Laws Order 1973.

94 *B Thammiah v Election Officer* (1980) 1 Kant LJ 19-20.

95 Sections 30-31 substituted by Act 12 of 1953.

96 Ibid.

97 Ibid.

98 Substituted by Karnataka Adaptations of Laws Order 1973.

notify the time at which the same shall come into force in the place or portion of the state to which it is so extended or applied; and unless it is otherwise provided in the Act, the government may, by notification in the *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 state, or cancel the order for extending or applying the same to such place or portion of the state.

Provided that no order postponing the time at which an Act or provision shall come into force or cancelling the 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 State to which such order relates].

99[31A. Construction of References to Certain Laws—Any reference in any ¹[Karnataka Act] to a Mysore Act which is not in force in the Bombay Area, Hyderabad Area, Madras Area or Coorg District, shall in relation to such Area, or District, unless the context otherwise requires, be construed as a reference to the corresponding law, if any, in force in such Area or District].

32. Application of Act to Ordinances—The provision of this Act shall apply in relation to any Ordinance promulgated by the ²[Governor] under art 213 of the Constitution in like manner as they apply in relation to ³[Karnataka Acts] made by the State Legislature;

Provided that sub-s (1) of s 5 of this Act shall apply to any such Ordinance as if the reference in that sub-section 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 that *Gazette*.]

99 Section 31A inserted by the Mysore Adaptation of Laws Order 1956.

- 1 Substituted by Karnataka Adaptations of Laws Order 1973.
- 2 Substituted by the Mysore Adaptation of Laws Order 1956.
- 3 Substituted by Karnataka Adaptations of Laws Order 1973.

APPENDIX XIV

The Kerala Interpretation and General Clauses Act 1125

(KERALA ACT NO 7 OF 1125)

The following Act of the Legislature of the United State of Travancore and Cochin received the assent of His Highness the Raj Pramukh on the 5 January 1950, corresponding to the 21 Dhanu 1125 and is hereby published for general information:

PREAMBLE

WHEREAS it is necessary to enact an Interpretation and General Clauses Act 1125; it is hereby enacted as follows:

PRELIMINARY

1. **Short Title and Commencement**—(1) This Act may be called the ¹[***] Interpretation and General Clauses Act 1125.

(2) It shall come into force at once.

GENERAL DEFINITIONS

2. **Definitions**—In this Act, and in all enactments now in force or passed 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 Penal Code for the time being in force;
- (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 extend also to illegal omissions;
- (3) ²['Act'] shall mean a Proclamation or Act of Travancore or Cochin, an Act or Ordinance of Travancore-Cochin, an Act passed by the Legislature of the State of Kerala, and Ordinance promulgated by

1 The words 'Travancore-Cochin' were omitted by Act No 3 of 1957, s 2.

2 Substituted by Act No 3 of 1957, s 3.

- the Governor under art 213 of the Constitution or, where with respect to the State of Travancore-Cochin or Kerala the power to make laws is vested in the President or other authority under subcl (a) of cl (1) of art 357 of the Constitution, any law made in exercise of such power);
- (4) 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
 - (5) 'Chapter', 'Part', 'Section' and 'Schedule' shall mean respectively a Chapter, Part and section of, and Schedule to, the Act in which the word occurs;
 - (6) 'Cochin' shall mean that portion of the territory of the United State of Travancore and Cochin which before the 1 July 1949, formed the State of Cochin;
 - (7) 'Commencement' used with reference to an Act shall mean the day on which the Act comes into force;
 - (8) 'covenant' shall mean the covenant entered into by the Rulers of Travancore and Cochin for the formation of the United State of Travancore and Cochin;
 - (9) '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;
 - (10) 'enactment' shall include an Act, ³[***];
 - (11) 'father', in the case of anyone whose personal law permits adoption, shall include an adoptive father;
 - (12) 'financial year' shall mean the year commencing on the 1 April;
 - ⁴(13) 'gazette' or 'Kerala Government Gazette' shall mean the gazette published by or under the authority of the government];
 - (14) nothing is said to be done or believed in 'good faith' which is done or believed without due care and attention;
 - ⁵(15) 'Government', 'the government' or 'state government'—
 - (a) as respects anything done before the commencement of the Constitution, shall mean the Government of Travancore or Cochin or Travancore-Cochin, as the case may be;
 - (b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean the Government of the State of Travancore-Cochin; and
 - (c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act 1956, shall mean the Government of the State of Kerala;

and shall, in relation to functions entrusted under art 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article];

3 Omitted by Act No 3 of 1957, s 3.

4 Substituted by *ibid*.

5 *Ibid*.

- (16) “[*****];
- (17) ‘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, but not standing crops;
- (18) ‘imprisonment’ shall mean imprisonment of either description as defined in the Penal Code for the time being in force;
- (19) ‘judicial proceeding’ shall mean any proceeding in the course of which evidence is, or may be, legally taken;
- (20) ‘local Authority’ shall mean a Municipal Corpn or Council, a Town Council or other authority legally entitled to or entrusted by the government with the control or management of a municipal or local fund;
- (21) ‘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;
- (22) ‘month’ shall mean a month reckoned according to the British calendar;
- (23) ‘movable property’ shall mean property of every description except immovable property;
- (24) ‘oath’ shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (25) ‘offence’ shall mean any act or omission made punishable by any law for the time being in force;
- (26) ‘person’ shall include any company or association or body of individuals, whether incorporated or not;
- (27) ‘place’ includes also a house, building, tent and vessel;
- (28) ‘public’ includes any class or section of the public;
- (29) ‘public nuisance’ shall have the meaning assigned to that expression in the Penal Code for the time being in force;
- ⁷[(30) ‘registered’ used with reference to a document, shall mean registered in India under the law for the time being in force for the registration of documents];
- (31) ‘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;
- (32) ‘ship’ shall include every description of vessel used in navigation not exclusively propelled by oars;
- (33) ‘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;
- (34) ‘son’ in the case of any one whose personal law permits adoption, shall include an adopted son;
- (35) ‘sub-section’ shall mean a sub-section of the section in which the word occurs;

6 Omitted by Act No 3 of 1957, s 3.

7 Substituted by Act No 3 of 1957, s 3.

- (36) '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;
- (37) 'Travancore' shall mean the portion of the territory of the United State of Travancore and Cochin which before the 1 July 1949, formed the State of Travancore;
- (38) 'United State' shall mean the United State of Travancore and Cochin formed by the integration of the State of Travancore and Cochin;
- (39) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (40) 'Will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (41) 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
- (42) 'year' shall mean a year reckoned according to the British calendar.

GENERAL RULES OF CONSTRUCTION

3. Coming into Operation of Enactments—⁸[(1) Where any Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the Act is first published in the *Gazette* after it receives the assent of the *Rajpramukh*, the Governor or the President, as the case may be.

Explanation—This sub-section shall have effect—

- (a) in relation to an Ordinance promulgated by the governor, as if for the words 'after it receives the assent of the *Rajpramukh*, the Governor or the President, as the case may be', the words 'after it is promulgated by the Governor' were substituted; and
- (b) in relation to a law made by the President or other authority in exercise of the power vested under sub-cl (a) of cl (1) of art 357 of the Constitution, as if for the words 'after it receives the assent of the *Rajpramukh*, the governor or the President as the case may be', the words 'after it is made by the President or other authority' were substituted].
- (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.

4. 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 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

Section 4 gets attracted only when there is a repeal of any state enactment unless a different intention appears.⁹

5. Repeal of Act Making Textual Amendment in Act—Where any Act repeals any enactment by which the text of any 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.

6. Revival of Repealed Enactments—In any 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.

7. Construction of References to Repealed Enactments—Where any Act repeals and re-enacts, with or without modification any provision of a former enactment, then, 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.

8. 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 day or any other period of time to use the word 'to'.

9. 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 Limitation Act for the time being in force applies.

10. 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.

⁹ *Joseph v Varkey* (1987) 1 KLT 279, 282, 1987 Ker LJ 119.

11. Duty to be Taken 'pro rata' in Enactments—Where, by any enactment, 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.

12. 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.

POWERS AND FUNCTIONARIES

13. Construction of Provisions as to Exercise of Powers and Duties—

(1) Where, an Act confers a power or imposes a duty, then unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasions requires.

(2) Where, an Act confers a power or imposes a duty, on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him or to be in charge of powers and duties of that office.

14. 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.

15. 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 for the time being power to make the appointment shall also have the power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power.

16. Substitution of Functionaries—In any 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.

17. 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.

18. 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.

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

19. Construction of Orders, etc, Issued Under Enactments—Where, by any Act, a power to issue any notification, order, scheme, rule, form or bye-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.

20. 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 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 conditions, if any, to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.

Comments

The general power of rescindment available to State Government of Kerala has to be determined in the light of subject-matter, context and effect of the relevant provisions of the statute.¹⁰

21. Making of Rules or Bye-laws and Issuing of Orders or Notifications Between Passing and Commencement of Enactment—Where, by any Act which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders or notifications 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 after the passing of the Act; but the rules, bye-laws, orders or notifications so made or issued shall not take effect till the commencement of the Act.

22. Provisions Applicable to the Making of Rules or Bye-laws or to the Issuing of Notifications After Previous Publications—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 that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as is therein prescribed;
- (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

¹⁰ *State of Kerala v KG Madhavan Pillai* (1988) 4 SCC 669.

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.

23. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted—Where any Act 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 Act 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.

MISCELLANEOUS

24. Recovery of Fines—The provisions of the Penal Code for the time being in force relating to fines and the provisions of the Criminal Procedure Code 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 Act, rule or bye-law, unless the Act, rule or bye-law contains an express provision to the contrary.

25. Provisions as to Offence Punishable Under Two or More Enactments—Where an Act or omission constitutes an offence 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.

26. 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 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, pre-paying and posting by registered post or anchal, 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 or anchal.

27. Citation of Enactment—(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.

28. Time—Whenever any expression of time occurs in any Act, deed, or

other legal instrument, the time referred to shall, unless it is otherwise expressly provided be held to signify the Indian Standard Time adopted by the Government of India.

29. Provisions When No Time Prescribed—Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

30. Deviations From Forms—Save as is otherwise expressly provided, whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them.

31. Rights of the Government—No Act shall in any manner whatsoever affect the rights of the government unless it is therein expressly provided, or unless it appears by necessary implication that the Government is bound thereby.

32. Repeal—The Travancore General Clauses Act 2 of 1072 and the Cochin General Clauses Act 3 of 1079 are hereby repealed.

APPENDIX XV

The Madhya Pradesh General Clauses Act 1957¹

(ACT NO 3 OF 1957)

[Received the assent of the Governor on the 24 January 1958; assent first published in the *Madhya Pradesh Gazette* on the 7 February 1958].

An Act to Provide for the Construction of Madhya Pradesh Acts and for Shortening the Language Thereof and for Certain Other Matters.

Be it enacted by the Madhya Pradesh Legislature in the eighth year of the Republic of India as follows:

1. Short Title and Commencement—(1) This Act may be called as 'The Madhya Pradesh General Clauses Act, 1957'.

(2) This Act shall be deemed to have come into force on the 1 November 1956.

2. General Definitions—In this Act and in all Madhya Pradesh enactments, unless there is anything repugnant in the subject or context—

- (1) 'abet', with its grammatical variations and cognate expressions, has the same meaning as in the Indian Penal Code;
- (2) 'act', used with reference to an offence or civil wrong denotes a series of acts as well as a single act, and words which refer to acts done extend also to illegal omissions;
- (3) 'affidavit' includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (4) 'appointed day' means the 1 November 1956;
- (5) 'chapter' means a Chapter of the Act, Ordinance or Regulation in which the word occurs;
- (6) 'collector' means the chief officer-in-charge of the revenue administration of a district;
- (7) 'commencement' used with reference to Madhya Pradesh Act, means the day on which the enactment comes into force;

¹ See 67-74, *Madhya Pradesh Rajpatra*, Pt 4, dtd 7 February 1958.

- (8) 'Commissioner' means the chief officer-in-charge of the revenue administration of a division;
- (9) 'Constitution' means the Constitution of India;
- (10) 'Consular officer' includes 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;
- (11) 'District Judge' means the Judge of a principal Civil Court of original Jurisdiction, but does not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (12) 'document' includes any matter written, expressed, inscribed, 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 purposes of recording that matter;
- (13) 'enactment' includes—
- (i) a Regulation or an Ordinance as hereinafter defined; and
 - (ii) also any provision contained in any Act, or in any such Regulation or Ordinance as aforesaid;
- (14) 'father', in the case of any one whose personal law permits adoption, includes an adoptive father;
- (15) 'financial year' means the year commencing on the 1 April;
- (16) 'Governor' means the Governor of the State of Madhya Pradesh;
- (17) 'High Court' means the High Court of Madhya Pradesh;
- (18) 'immovable property' includes land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth;
- (19) 'imprisonment' means imprisonment of either description as defined in the Indian Penal Code;
- (20) 'local authority' means a municipal corporation; municipality, local board, Janapad Sabha, village Panchayat, or other authority legally entitled to, or entrusted by the government with the control or management of a municipal or local fund;
- (21) 'Madhya Pradesh Act' means—
- (a) an Act made after the appointed day by the Legislature of the State of Madhya Pradesh under the Constitution; or
 - (b) a law made after that date in exercise of the power of the Legislature of the state—
 - (i) by Parliament;
 - (ii) by the President or any other authority referred to in sub-cl (a) of cl (1) of art 357, under the Constitution;
- (22) 'magistrate' includes every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure 1898 (5 of 1898) for the time being in force;
- (23) 'month' means a month reckoned according to the British calendar;
- (24) 'movable property' means property of every description, except immovable property;
- (25) 'notification' means a notification published in the *Gazette*;

- (26) 'oath' includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (27) 'offence' means any act or omission made punishable by any law for the time being in force;
- (28) '*Official Gazette*' or '*Gazette*' means the *official Gazette* of the State of Madhya Pradesh;
- (29) 'ordinance' means an Ordinance promulgated after the appointed day by the Governor under art 213 of the Constitution;
- (30) 'Part' means a part of the Madhya Pradesh Act or Regulation in which the word occurs;
- (31) 'person' includes any company or association or body or individuals, whether incorporated or not;
- (32) 'prescribed' means prescribed by rules made under an enactment;
- (33) 'public nuisance' means a public nuisance as defined in the Indian Penal Code;
- (34) 'registered', used with reference to a document, means registered in a State or Union territory under the law for the time being in force for the registration of documents;
- (35) 'regulation' means a regulation made after the appointed day by the Governor under para 5 of the Sch 5 to the Constitution;
- (36) 'rule' means 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' means a schedule to the enactment in which the word occurs;
- (38) 'section' means a section of the enactment in which the word occurs;
- (39) 'sign' with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes 'mark' with its grammatical variations and cognate expressions;
- (40) 'son' in the case of any one whose personal law permits adoption, includes an adopted son;
- (41) 'State of Madhya Pradesh' or 'the State' means the State of Madhya Pradesh specified in the First Schedule to the Constitution;
- (42) 'State Government' or 'government' means the Government of the State of Madhya Pradesh;
- (43) 'sub-section' means a sub-section of the section in which the word occurs;
- (44) 'swear' with its grammatical variations and cognate expressions include affirming and declaring in the case of person by law allowed to affirm or declare instead of swearing;
- (45) 'vessel' includes any ship or boat or any other description of vessel used in navigation;
- (46) 'Will' includes a codicil and every writing making a voluntary posthumous disposition of property;
- (47) 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;

- (48) 'year' means a year reckoned according to the British calendar;
- (49) the expressions—
- (a) 'Mahakoshal region' means the territories comprised immediately before the appointed day within the district of Jabalpur, Sagar, Damoh, Mandla, Hoshangabad, Narsimhapur, Chhindwara, Seoni, Betul, Nimar, Raipur, Bilaspur, Durg, Bastar, Sarguja, Raigarh and Balaghat;
 - (b) 'Madhya Bharat region' means the territories which immediately before the appointed day were comprised in the Part 'B' State of Madhya Bharat but excluding the area comprised within Sunel Lappa of Bhanpura Tehsil of Mandsaur District;²[and shall with effect from the 1 October 1959, be deemed to include the territories specified in the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act 1959 (47 of 1959)];
 - (c) 'Vindhya Pradesh region' means the territories which immediately before the appointed day were comprised in the Part 'C' State of Vindhya Pradesh;
 - (d) 'Bhopal Region' means the territories which immediately before the appointed day were comprised in the Part 'C' State of Bhopal;
 - (e) 'Sironj Region' means the area comprised within the Sironj sub-division of the Kota.

GENERAL RULES OF CONSTRUCTION

3. Coming into Operation of Madhya Pradesh Act—(1) Where any Madhya Pradesh Act is not expressed to come into operation on particular day, then, it shall come into force if it is an Act of the Legislature, 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 intention is expressed, a Madhya Pradesh Act shall be construed as coming into force immediately on the expiration of the day preceding its commencement.

4. Marginal Notes not Part of Madhya Pradesh Act—The marginal note appearing against any section of the Madhya Pradesh Act and the reference to the number and date of any former law cited by its short title in any such section shall not form part of the said Act.

5. Gender and Number—In all Madhya Pradesh Acts, unless a different intention appears—

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

6. Commencement and Termination of Time—In any Madhya Pradesh Act it shall be sufficient, for the purpose of excluding the first of series of days or any

² Inserted by MP Act 6 of 1960.

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'.

7. Computation of Time—Where, by and Madhya Pradesh 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 specified period, then if the court or office is closed on that day or the last day of the specified period, the act or proceeding shall be considered as done or taken in the due time if it is done or taken on the next day 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 (9 of 1908), applies.

8. Act Done on Public Holiday not Invalid—Any act done by any authority whether judicial or executive, on a day which is a public holiday shall not be invalid by reason only of its having been done on that day.

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

³[REPEAL AND EXPIRATION OF ENACTMENTS]

10. Effect of Repeal—Where any Madhya Pradesh Act repeals any enactment 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, any such penalty, forfeiture or punishment may be imposed as if the repealing Madhya Pradesh Act had not been passed.

⁴[**10-A. Effect of Expiration by Efflux of Time**—Where any Madhya Pradesh Act which is to be in operation for a specified period ceases to have effect on the expiration of the period of operation fixed in respect thereof, then, unless a different intention appears, the provisions of s 10 shall apply in respect of such expiration as if the expiring Act were repealed on the date of its expiration].

11. Repeal of Enactment Making Textual Amendment in Any Act—Where any Madhya Pradesh Act repeals any enactment by which the text of any such previous

³ Substituted vide MP Act 6 of 1960.

⁴ Inserted vide MP Act 6 of 1960, s 4.

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.

12. Revival of Repealed Enactment—In any Madhya Pradesh Act it shall be necessary, for the purpose of reviving, either wholly or partially any enactment wholly a partially repealed, expressly to state that purpose.

13. Construction of References to Repealed Enactment—Where any Madhya Pradesh Act repeals and re-enacts, with or without notification, any provision of a former enactment, then 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 provisions so re enacted.

POWERS AND FUNCTIONARIES

14. Powers Conferred or Duties Imposed to be Exercisable or Performable from Time to Time—Where by any enactment, any power is conferred or a duty is imposed, then unless a different intention appears, that power may be exercised and that duty shall be performed from time to time, as occasion requires.

15. Power to Appoint to Include Power to Appoint 'ex-officio'—Where, by any enactment, a power to appoint any persons 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.

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

Comments

Section 16 clearly envisages that power to appoint includes power to suspend and dismiss as such the late government who has power to appoint Chief Municipal Officer has power to dismiss him also.⁵

Order of Deputy Registrar, Cooperative Societies postponing suspending an election which is passed on a direction made in revision petition is binding on the 'Election Officer' in terms of r 4(26), MP Cooperative Societies Rules 1962 read with s 16 of MP General Clauses Act 1957.⁶

17. Substitution of Functionaries—In any enactment it shall be sufficient, for the purpose of indicating the application of the 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.

18. Successors—In any enactment 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.

⁵ *Alok Awasthi v Ram Sharma* AIR 1988 MP 253-54.

⁶ *Rustam Singh v Election Officer* AIR 1991 MP 262, 268.

19. Official Chiefs and Subordinates—In any enactment 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.

Provisions as to Orders, Rules, etc, made under Madhya Pradesh Acts.

20. Construction of Orders, etc, Issued Under Madhya Pradesh Acts—Where, in any Madhya Pradesh Act, a power to issue any notification, order, scheme, rule, form or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law, shall, unless a different intention appears, have the same respective meanings as in the Act conferring the power.

21. Power to Make to Include Power to Add, Amend, Vary or Rescind Orders, etc—Where, by any Madhya Pradesh 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 sanctions and conditions, if any, to add, to amend vary or rescind any notifications, orders, rules or bye-laws so issued.

22. Making of Rules or Bye-laws and Issuing of Orders Between Publication and Commencement of Madhya Pradesh Acts—Where, by any Madhya Pradesh Act, which is not to come into force 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 after the passing of the Act, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act:

Provided that when all the provisions contained in any such Act do not come into force simultaneously, the rules, bye-laws or orders so made or issued shall not take effect till the commencement of the provisions with respect to which they are so made or issued.

23. Publication of Orders and Notifications in the Official Gazette to be Due Publication—Where, in any Madhya Pradesh Act or any rule made 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 *Official Gazette*.

24. Provisions Applicable to Making of Rules, Bye-laws, etc, After Previous Publication—Where, by any Madhya Pradesh 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 so requires, in such manner as the 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 *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.

7[24-A. **Laying of Rules on Table of Assembly**—Where, in any Madhya Pradesh Act, it is directed that a rule shall be laid on the table of Legislative Assembly, then such rule shall be laid, as soon as may be after it is made, before the Legislative Assembly, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which the said period expires, the Legislative Assembly adopts a resolution that such a rule should not be made, or that any modification be made therein, the rule shall thereafter be of no effect or have effect only in the modified form, as the case may be:

Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

25. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted—Where any enactment is repealed and re-enacted by Madhya Pradesh Act, with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, regulation, 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, regulation, form or bye-law, made or issued under the provisions so re-enacted.

Comments

Rules framed under the repealed Act remain in force till the new rules framed under the amended enactment if the said old rules are not inconsistent to the provisions of new Act.⁸

MISCELLANEOUS

26. Recovery of Fines—Sections 63–70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure (5 of 1898), in relation to the issue and the execution of warrants for the levy of fines, shall apply to, all fines imposed under any Madhya Pradesh Act, or any rule or bye-law made under any Madhya Pradesh Act, unless the Act, rule or bye-law, contains an express provision to the contrary.

7 Inserted by MP Act 6 of 1960.

8 *Janna Prasad v State of Madhya Pradesh* 1987 Jab LJ 759, 765.

27. Provision as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence 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 prosecuted and punished twice for the same offence.

28. Meaning of Service by Post—Where any Madhya Pradesh 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, 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.

Comments

Where indorsement of postman itself is doubtful sufficient service cannot be presumed under s 28.⁹

29. Citation of Enactments—(1) In any Madhya Pradesh Act and in any rule, bye-law, instrument or document made under or with reference to any Madhya Pradesh 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) And such citation, of, or reference to, any enactment shall, unless a different intention appears, be deemed to be a citation of, or reference to, such enactment.

(3) In this Act, and in Madhya Pradesh 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. Special Provisions in Respect of Repeals or Amendments by Madhya Pradesh Act—Where, after the commencement of this Act, any Madhya Pradesh Act, Madhya Bharat Act, Vindhya Pradesh Ordinance, Vindhya Pradesh Act, Bhopal Act or Rajasthan Law is repealed or amended, then, notwithstanding anything contained in the foregoing provisions of this Act, the provisions of—

- (1) The CP and Berar General Clauses Act 1914 (4 of 1914);
- (2) The Madhya Bharat General Clauses Act 1950 (84 of 1950);
- (3) The Vindhya Pradesh General Clauses Act 1953 (6 of 1953);
- (4) The Bhopal General Clauses Act 1931 (3 of 1931);
- (5) The Rajasthan General Clauses Act 1955 (8 of 1955);

as the case may be, shall unless otherwise expressly provided in the repealing or amending Act, apply to such repeal or amendment as if, such repeal or amendment were made by a Madhya Pradesh Act, Madhya Bharat Act, Vindhya Pradesh Ordinance, Vindhya Pradesh Act, Bhopal Act or Rajasthan Law, as the case may be.

⁹ *Ram Kishan v Kailash Narayan* 1987 Jab LJ 389, 394.

Explanation—For the purposes of section;

- (a) 'Madhya Pradesh Act' means a Madhya Pradesh Act defined in the Central Provinces and Berar General Clauses Act, 1914 (1 of 1914), as in force in the Mahakoshal Region on the appointed day;
- (b) 'Madhya Bharat Act' means a Madhya Bharat Act as defined in the Madhya Bharat General Clauses Act 1950 (84 of 1950) and in force in the Madhya Bharat Region on the appointed day;
- (c) 'Vindhya Pradesh Ordinance' means a Vindhya Pradesh Ordinance as in force in the Vindhya Pradesh Region on the appointed day;
- (d) 'Vindhya Pradesh Act' means a Vindhya Pradesh Act as defined in the Vindhya Pradesh General Clauses Act 1953 (6 of 1953), and in force in the Vindhya Pradesh Region on the appointed day;
- (e) 'Bhopal Act' means a Bhopal Act as defined in the Bhopal General Clauses Act 1931 (3 of 1931), and in force in the Bhopal Region on the appointed day;
- (f) 'Rajasthan Law' means a Rajasthan Law as defined in the Rajasthan General Clauses Act 1955, and in force in the Sironj Region on the appointed day.

31. Application of Act to Ordinance and Regulations—The provisions of this Act shall apply, unless there is anything in the subject or context—

- (a) to any Ordinance or Regulation as they apply in relation to Madhya Pradesh Acts:

Provided that sub-s (1) of s 3 of this Act shall apply to any Ordinance or Regulation as if for the reference in the said 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 or the Regulation, as the case may be, in that *Gazette*;

- (b) the construction of rules, regulations, bye-laws, orders, notifications, schemes or forms made or issued under the Madhya Pradesh Act.

APPENDIX XVI

The Manipur General Clauses Act 1966

(MANIPUR ACT 3 OF 1966)

An Act to Provide for the Application of the General Clauses Act 1897 for the Interpretation of the Acts of the Legislature of the Union Territory of Manipur

It is hereby enacted in the Seventeenth Year of the Republic of India as follows:

1. Short Title, Extent and Commencement—(1) This Act may be called the Manipur General Clauses Act 1966.

(2) It extends to the whole of the Union Territory of Manipur.

(3) It shall come into force at once.

2. General Clauses Act 1897, to Apply to Acts of the Legislative Assembly of Manipur—Unless the context otherwise requires, the General Clauses Act 1897, shall apply for the interpretation of the Acts of the Legislature of the Union Territory of Manipur (whether enacted before or after the commencement of this Act), as it applies for the interpretation of a Central Act.

APPENDIX XVII

The Meghalaya Interpretation and General Clauses Act 1972

An Act to provide for the interpretation of Meghalaya enactments and for shortening the language thereof.

Be it enacted by the Legislature of Meghalaya in the 21st year of the Republic of India as follows:

Chapter I

PRELIMINARY

1. Short Title and Commencement—(1) This Act may be called the Meghalaya Interpretation and General Clauses Act 1972.

(2) It shall be deemed to come into force on the 21 January 1972.

2. Application of Act—Save as otherwise expressly provided herein, the provisions of this Act shall apply, unless the context otherwise requires, to this Act and to all other enactments, whether passed before or after the commencement of this Act.

Chapter II

DEFINITIONS

3. Definitions—In all enactments, unless the context otherwise requires—

- (1) 'abet', with its grammatical variations and cognate expressions, has the same meaning as in the Indian Penal Code;
- (2) 'act', used with reference to an offence or a civil wrong denotes a series of acts as well as a single act and words which refer to acts done extend also to illegal omission;
- (3) 'affidavit' means a statement in writing, signed by the person making it and confirmed by oath;
- (4) 'Assam Act' means an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861-1909 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, 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;
- (5) 'attested' in relation to a document means attested by a witness who has seen the executant sign the document or has received from the executant a personal acknowledgment of his signature, and who has signed that document in the presence of the executant, but no particular form of attestation shall be necessary;
 - (6) 'autonomous state' means the autonomous State of Meghalaya formed under s 3 of the Assam Reorganisation (Meghalaya) Act 1969;
 - (7) 'Bengal Act' means an Act made by the Lieutenant Governor of Bengal in Council under the Indian Councils Act 1961, 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 Act 1861, 1892 and 1909, or by the Local Legislature of Bengal under the Government of India Act;
 - (8) 'Central Act' means an Act of the Parliament, and includes an Act passed or made before the commencement of the Constitution:
 - (a) by the Dominion Legislature of the Indian Legislature; or
 - (b) by the Governor-General in Council or the Governor-General acting in a legislative capacity;
 - (9) 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President, and includes in relation to functions entrusted under cl (1) of art 248 of the Constitution to the Government of Meghalaya, the Government of Meghalaya acting within the scope of the authority given to it under that clause;
 - (10) 'chapter' means a Chapter of the enactment in which the word occurs;
 - (11) 'child' in the case of any one whose personal law permits adoption, includes an adopted child;
 - (12) 'clause' occurring in a section which has no sub-section, means a sub-division of that section, and occurring in a sub-section means a sub-division of that sub-section;
 - (13) 'collector' means the chief officer-in-charge of the revenue administration of district;
 - (14) 'commencement' used with reference to an enactment, means the day on which the enactment comes into force;
 - (15) 'Commissioner' means the chief officer-in-charge of the revenue administration of a division;
 - (16) 'Constitution' means the Constitution of India;
 - (17) 'Consular officer' includes consul-general, consul, vice-consul, consular agent, pro-consul and any other person for the time being authorised to perform the duties of a consul-general, consul, vice-consul or consular agent;
 - (18) 'daughter' in the case of any one whose personal law permits adoption, includes adopted daughter;
 - (19) 'day' means a period of 24 hours beginning at midnight;
 - (20) 'Deputy-commissioner' means the chief officer-in-charge of the general administration of a district;

- (21) 'district court' means the principal civil court of original jurisdiction but does not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (22) 'district judge' means the judge of a district court and includes an Additional District Judge;
- (23) 'document' includes any matter written, expressed, inscribed or described upon any substance by means of letters, figures or marks or by more than one of those means, intended to be used or which may be used as evidence of that matter;
- (24) 'Eastern Bengal and Assam' means 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 1911;
- (25) 'Eastern Bengal and Assam Act' means an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts 1861 to 1909;
- (26) 'enactment' means an Act of the Meghalaya Legislature, and includes a Regulation, Meghalaya Ordinance, and any provision contained in any Act, Regulation or Ordinance as aforesaid;
- (27) 'father', in the case of any one whose personal law permits adoption, includes an adoptive father;
- (28) 'financial year' means the year commencing on the 1 April;
- (29) '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;
- (30) 'government' or 'the government' includes the state government as well as the Central Government;
- (31) 'Government of Meghalaya' means the governor;
- (32) 'Government securities' means securities of the Government of Meghalaya, the Central Government or of any other government;
- (33) 'High Court' means the Gauhati High Court (The High Courts of Assam, Nagaland, Meghalaya, Manipur and Tripura);
- (34) 'immovable property' includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to any thing attached to the earth;
- (35) 'imprisonment' means imprisonment of either description as defined in the Indian Penal Code;
- (36) 'judicial proceeding' means any proceeding in the course of which evidence is, or may be, legally taken;
- (37) 'local authority' means a municipal corporation, a municipality, a municipal committee, a local or district board or any other authority legally entitled to, or entrusted by the government with the control or management or, a municipal or local fund;
- (38) 'local law' means a law applicable to a part only of Meghalaya;
- (39) 'magistrate' includes every person exercising all or any of the powers of a magistrate under the Code of Criminal Procedure 1898, or under any other law for the time being in force relating to criminal procedure;

- (40) 'master' used with reference to a ship, includes every person (except a pilot or harbour-master) having for the time being command or charge of the ship;
- (41) 'Meghalaya' means the State of Meghalaya formed under s 5 of the North Eastern Area (Recognition) Act 1971 and Comprising the areas specified therein;
- (42) 'Meghalaya Act' means an Act passed by the Legislative of Meghalaya;
- (43) 'months' means a month reckoned according to the Gregorian Calendar;
- (44) 'movable property' means property of every description except immovable property;
- (45) 'notification' means notification in the *Official Gazette*;
- (46) 'oath' includes an affirmation and a declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (47) 'offence' means any act or omission made punishable by any law for the time being in force;
- (48) '*Official Gazette*' means the *Official Gazette* of Meghalaya;
- (49) 'Meghalaya ordinance' means an ordinance promulgated by the Governor of Meghalaya;
- (50) 'Part' means a part of the enactment in which the word occurs;
- (51) 'person' includes any company or association or body of individuals, whether incorporated or not;
- (52) 'prescribed' means prescribed by rules made under an enactment in which the word occurs;
- (53) 'public' includes any class or section of the public;
- (54) 'public nuisance' means a public nuisance as defined in the Indian Penal Code;
- (55) 'registered' used with reference to a document, means registered in India under the law for the time being in force for the registration of documents;
- (56) 'regulation' means a Regulation made by the Governor under the sixth Sch to the Constitution or under the Government of India Act 1935, and shall include the regulation as defined in cl (50) of s 3 of the General Clauses Act 1889;
- (57) 'rule' means rule made in exercise of a power conferred by any enactment, and includes a regulation made as rule under any enactment;
- (58) 'schedule' means a schedule to the enactment in which the word occurs;
- (59) 'section' means a section of the enactment in which the word occurs;
- (60) 'ship' includes every description of vessel used in navigation not exclusively propelled by oars;
- (61) 'sign' with its grammatical variations and cognate expressions, used with reference to a person who is unable to write his name, includes 'mark' with its grammatical variations and cognate expressions;
- (62) 'son' in the case of any one whose personal law permits adoption, includes an adopted son;
- (63) 'special law' means a law applicable to a particular subject;
- (64) 'state' means a state specified in the First Schedule to the Constitution, and includes a Union Territory;

- (65) 'sub-section' means a sub-section of the section in which the word occurs;
- (66) 'swear' with its grammatical variations and cognate expressions, includes affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
- (67) 'vessel' includes any ship or boat or any other description of vessel used in navigation;
- (68) 'Will' and 'codicil' have the meanings respectively assigned to them in the Indian Succession Act 1925;
- (69) 'writing' expressions referring to writing shall be construed as including reference to printing, type-writing, photography and other modes of representing, reproducing words in a visible form;
- (70) 'year' means a year reckoned according to the Gregorian calendar.

4. Definition in Enactments to Apply Unless the Context Otherwise Requires— In every enactment, where a word is defined—

- (a) the definition shall apply unless the context of the enactment otherwise requires;
- (b) grammatical variations of that word and cognate expressions shall have corresponding meanings.

Chapter III

GENERAL RULES OF CONSTRUCTION

5. **Territorial Extent of Meghalaya Acts**—Every enactment shall, unless the contrary is expressly provided therein, apply to the whole of Meghalaya.

6. **Coming into Force of Enactments**—(1) Where a Meghalaya Act is not expressed to come into force on a particular day, then, it shall come into force on the day on which the assent of the governor is first published in the *Official Gazette*.

- (2) Unless the contrary intention is expressed, a Meghalaya Ordinance shall come into force on the day on which it is promulgated by the governor;
- (3) Unless the contrary intention is expressed, every enactment shall be construed as coming into force immediately on the expiration of the day preceding the day on which it comes into force.

7. **Expiry of Temporary Enactments**—Where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall, unless the contrary intention is expressed, be construed as ceasing to have effect immediately on the commencement of the following day.

8. **Marginal Notes Not Part of Enactments**—The marginal notes appearing against any provision of any enactment, and the reference to the number and date of any former law in the margin against any such provision, shall form no part of the said enactment and shall be deemed to have been inserted for the sake of convenience only.

9. Government to be Bound by Enactments—In the absence of an express provision to the contrary, every enactment shall be binding on the government.

10. Effect of Incorporation—Where any enactment constitutes a body corporate by any form of words, that body corporate shall have perpetual succession and a common seal and may enter into contracts by its corporate name, acquire, hold and dispose of property, whether movable or immovable, and sue or be sued by its corporate name.

11. Offences by Companies—(1) If a person committing an offence under any enactment is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Where an offence under any enactment has been committed by a company, any director, manager, secretary or other officer of the company, not being a person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall, if it is proved that the offence has been committed with his consent or connivance or that the commission of the offence is attributable to any neglect on his part, also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purpose of this section—

- (a) 'company' means any body corporate and includes a firm or other association of persons; and
 (b) 'director' in relation to a firm, means a partner in the firm.

12. Gender and Number—In all enactments unless a different intention appears—

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

13. Commencement and Termination of Time in Any Enactment—In any enactment, it shall be sufficient—

- (a) to use the words 'from' or the word 'after' for the purpose of excluding the first in a series of days;
 (b) to use the word 'to' for the purpose of including the last in a series of days;

- (c) to use the word 'on' or the word 'with' for the purpose of including the day on which the period is expressed to begin or to end; and
- (d) in relation to the interval between two events, to use the words 'clear days' or 'at least' or 'not less than' a number of days for the purpose of excluding the days on which the events happen and merely to specify the number of days for the purpose of excluding the day on which the first event happens and including the day on which the second event happens.

14. Computation of Time—Where by any enactment 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 specified period, then, if the court or office is closed on that day or the last day of the specified 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 Limitation Act 1963 applies.

15. Expression of Time—Where, in any enactment, any reference to a specified time of the day occurs, such time shall, unless it is otherwise specifically stated, be deemed to mean the Indian Standard Time.

16. Duty to be Taken *pro rata*—Where, by any enactment, 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.

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

18. Penalties Provided to be Maximum Penalties—Whenever in any enactment a punishment is provided for an offence, such punishment shall, unless a different intention appears, be deemed to be the maximum punishment for that offence.

19. Deviation from Forms—Save as otherwise expressly provided by any enactment whenever a form is prescribed by any enactment, slight deviations therefrom, not affecting the substance or calculated to mislead shall not invalidate it.

20. Acts Done on Holidays—Save as otherwise expressly provided by any enactment, no act done by any authority, whether such authority is judicial or executive, shall be invalid by reason only of its having been done on a public holiday.

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

Chapter IV
REPEAL AND EXPIRY OF ENACTMENTS

22. Effect of Repeal—Where a Meghalaya Act, Ordinance or Regulation repeal any enactment, 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.

23. Repeal of Law Making Textual Amendment in Other Laws—Where a Meghalaya Act, Ordinance or Regulation (not being an Act which is to cease to have effect or to cease to operate on the expiry of a particular period or on the happening of a particular contingency) amends the text of any enactment by the express omission, insertion or substitution of any matter, and any such amending Act is subsequently repealed, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the amending Act if such amendment was in force at the time of repeal.

24. Construction of Reference to Repealed Enactments—Where a Meghalaya Act, Ordinance or Regulation repeal and re-enact, with or without modification, any provision of, a former enactment, then references in any other enactment to the provision so repealed, shall, unless a different intention appears, be construed as references to the provision so re-enacted.

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

26. Effect of Expiration of Enactment—Where an enactment ceases to have effect or ceases to operate on the expiration of a particular period or on the happening of a particular contingency, then unless a different intention appears, the expiry shall not affect—

- (a) the previous operation of, or anything duly done or suffered under the enactment; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under that Act; or

- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against that Act; 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 may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the Act had not expired.

Chapter V

POWERS AND FUNCTIONARIES

27. Exercise of Powers and Performance of Duties—Where, by any enactment, any power is conferred or any duty is imposed, then, unless a different intention appears, that power may be exercised and that duty shall be performed from time to time as occasion requires.

28. Powers Incidental for Effective Exercise of Powers Granted—Where, by any enactment, a power is conferred on any person or functionary to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are necessary to enable such person or functionary to do or enforce the doing of such act or thing.

29. Power to Appoint to Include Power to Appoint *ex-officio*—Where, by any enactment, 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.

30. Power to Appoint to Include Power to Suspend or Dismiss—Where, by any enactment, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or by any other authority in exercise of that power.

31. Substitution of Functionaries—In any enactment it shall be sufficient for the purpose of indicating the application of the 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 who is, at the time of the passing of the enactment, exercising the functions, or that of the officer by whom the functions are commonly exercised.

32. Successors—In any enactment 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.

33. Official Chiefs and Subordinates—In any enactment, it shall be sufficient, for the purpose of expressing that a law relating 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 specify the duties of the superior.

Chapter VI
SUBORDINATE LEGISLATION

34. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactment—Where, by any enactment which is not to come into force 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 enactment 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 enactment, then, unless a different intention appears, that power may be exercised at any time after the passing of the enactment, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the enactment.

35. Power to Make Rules, etc, Includes Power to Add, Amend, Vary or Rescind Rules, etc—Where, by any enactment, a power to issue rules, notifications, orders, schemes, forms or bye-laws is conferred, then, unless a different intention appears that power includes a power to add, to amend, vary or rescind any rules, notifications, orders, schemes, forms or bye-laws so issued in the same manner and subject to the same sanction and condition (if any) as the power to issue the rules, notifications, orders, schemes, forms or bye-laws.

36. Provisions Applicable to Making of Rules or Bye-laws after Previous Publication—Where, by any enactment, 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 so requires, in such manner as the government may prescribe;
- (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 *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.

37. Continuation of Appointments, Rules, etc Issued Under Enactment 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, rule, notification, order, scheme, 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, rule, notification, order, scheme, form or bye-law made or issued under the provisions so reenacted.

36. Construction of Rules, Notifications, etc Issued Under Enactments—Where, by any enactment, a power to issue any rule, notification, order, scheme, form or bye-law is conferred, then, expressions used in the rule, notification, order, scheme, form or bye-law shall, unless a different intention appears, have the same respective meanings as in the enactment conferring the power.

39. Publication and Commencement of Rules—Every rule made under any enactment shall be published in the *Official Gazette* and shall, in the absence of an express provision to the contrary either in the rule or in the enactment under which it is made, come into force on the day on which it is published in the *Official Gazette*.

40. Laying Rule Before Legislative Assembly—(1) Every rule made by the Government of Meghalaya under any enactment shall be laid as soon as may be after it is made before the Legislative Assembly of Meghalaya while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any notification in the rule or resolves that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) If any rule is not laid before the Legislative Assembly in accordance with the provisions of sub-s (1), it shall, on the expiry of two successive sessions immediately following the publication of the rule, cease to have effect, without prejudice to the validity of anything previously done under that rule.

Chapter VII

MISCELLANEOUS

41. Citation of Enactments—(1) Any enactment may be cited by reference to the short title conferred thereon or by reference to the number and year thereof.

(2) Any provision in an enactment may be cited by reference to the section of the enactment in which the provision is contained.

42. Recovery of Fines—Sections 63–70 of the Indian Penal Code and as far as may be, the provisions of the Code of Criminal Procedure 1898, Now CrPC, 1973 (2 of 1974) in relation to the issue and execution of warrants for the levy of fines, shall apply to all fines imposed under any enactment, or under any rule or bye-law made thereunder, unless the enactment, rule or bye-law contains an express provision to the contrary.

43. Meaning of Service by Post—Where, any enactment 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, preparing 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.

APPENDIX XVIII

The Orissa General Clauses Act 1937

(ORISSA ACT 1 OF 1937)

[The assent of the Governor to the Act was published in the *Orissa Gazette* of the 29 October 1937.]

An Act for facilitating the Interpretation of Orissa Acts and for shortening the language used therein.

PREAMBLE

WHEREAS it is expedient to facilitate the interpretation of Orissa Act and to shorten the language used therein, it is hereby enacted as follows:

PRELIMINARY

1. Short Title—(1) This Act may be called the Orissa General Clauses Act 1937.
(2) It shall come into force at once.

2. Definitions—In this Act and in all Orissa 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 (45 of 1866);
- (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 the Faculty of Advocates in Scotland;
- (5) '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;

- (6) 'chapter' shall mean a Chapter of the Act in which the word occurs;
- (7) 'collector' shall mean the chief-officer-in-charge of the revenue administration of a district and shall include a deputy commissioner;
- (8) 'commencement' used with reference to an Act shall mean the day on which the Act comes into force;
- (9) '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;
- (10) '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;
- (11) 'district judge' shall mean the judge of a district court;
- (12) '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;
- (13) '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;
- (14) 'father' in the case of anyone whose personal law permits adoption, shall include an adoptive father;
- (15) 'financial year' shall mean the year commencing on the 1 April;
- (16) '*Gazette*' shall mean the *Official Gazette* of the ¹[state];
- (17) 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) 'government' or 'the government' shall include the ²[state] government as well as the Central Government;
- (19) 'High Court' used with reference to civil proceedings shall mean the highest civil court of appeal in the part of Orissa in which the Act containing the expression operates;
- (20) ³[****];
- (21) '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;
- (22) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code;
- (23) 'local authority' shall mean a Municipal Committee, District board, or any other authority, entrusted by any government with, or legally entitled to, the control or management of a municipal or local fund;
- (24) '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;

1 Substituted by ALO 1950.

2 Ibid.

3 Repealed by ALO 1950.

- (25) '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;
- (26) 'month' shall mean a month reckoned according to the British calendar;
- (27) 'movable property' shall mean property of every description except immovable property;
- (28) 'notification' shall mean a notification in the *Gazette*;

Comments

Only the one which is published in the *Gazette* is the valid notification. Rule 602 under the Orissa Municipal Act requires publication of notification in Oriya by affixture on notice board in the office of municipal Board. In such cases, compliance is to be done under both the Acts viz Orissa General Clauses Act and Orissa Municipal Act.⁴

- (29) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (30) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (31) 'Orissa Act' shall mean an Act made by the Provincial Legislature or the Governor of Orissa under the Government of India Act 1935; or by the Legislature of State of Orissa under the Constitution;
- (32) 'Part' shall mean a part of the Act or regulation in which the word occurs;
- (33) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- (34) '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;
- (35) 'Public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;
- (36) 'registered' used with reference to a document, shall mean registered in a Part A State or a part C state under the law for the time being in force the registration of documents;
- (37) 'regulation' shall mean a regulation made by the Governor under para 5 of the Fifth Sch to the Constitution and shall include a regulation made under the Government of India Act 1935, or a regulation made by the President under art 243 of the Constitution;
- (38) 'Revenue Commissioner' shall mean the Revenue Commissioner for Orissa;

- (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;
- (40) 'Schedule' shall mean a schedule to the Act or Regulation in which the word occurs;
- (41) 'section' shall mean a section of the Act or regulation in which the word occurs;
- (42) 'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (43) 'sign' with its grammatical variation 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;
- (44) 'son' in the case of anyone whose personal law permits adoption, shall include an adopted son;
- 5[(44a) 'sub-collector' shall mean the chief officer-in-charge of the revenue administration of a sub-division;
- (44b) 'Sub-divisional Officer' shall mean the Sub-collector;
- (45) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (46) '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;
- 46(a) 'tehsildar' shall mean the chief-officer-in-charge at the revenue administration of a tehsil;
- (47) '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 suit for purposes of jurisdiction;
- (48) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (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 in a visible form; and
- (51) 'year' shall mean a year reckoned according to the British calendar.

GENERAL RULES OF CONSTRUCTIONS

3. Coming into Operation of Acts—(1) Where any Orissa Act is not expressed to come into operation on a particular day then—

- (i) in the case of an Orissa Act 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 *Official Gazette*; and
- (ii) in the case of an Orissa 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 an Orissa Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

4. Printing of Date on Which Act is Published—In every Orissa Act the date of such publication as is mentioned in sub-s (1) of s 3 shall be printed either above or below the title of the Act and shall form part of the Act.

5. Effect of Repeal—Where any Orissa 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.

Comments

An application for determination of fair rent under Orissa Rent Control Act 1908 can not be entertained even for the period for which the Act was in force if such application was moved after expiry of the repealed Act. Such applications are not saved by s 5 of Orissa General Clauses Act.⁶

6. Revival of Repealed Enactment—In any Orissa 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.

7. Repeal of Act Making Textual Amendment in Act or Regulation—Where any Orissa Act repeals any enactment by which the text of any 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

⁶ *Biswanath Agrawala v Sub-divisional Judicial Magistrate* AIR 1991 Ori 208.

at the time of such repeal.

8. Construction of Reference to Repealed Enactments—Where any Orissa 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 Orissa 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, 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 Orissa Act, any act or proceedings 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.⁷

11. Measurement of Distances—In the measurement of any distance, for the purposes of any Orissa 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 Enactments—Where by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the value 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 Orissa 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. When Powers and Duties to be Exercised and Performed—Where an Orissa 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.

15. Exercise of Power and Performance of Duty by Temporary Holder of Office—Where an Orissa 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.

⁷ Now, Indian Limitation Act 1963.

16. Power to Appoint to Include Power to Appoint-ex-officio—Where, by an Orissa 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.

17. Power to Appoint to Include Power to Suspend or Dismiss—Where, by any Orissa 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.

Comments

Where the suspension is not done as punishment but as security or precautionary measure in the interest of the industry or the office, pending inquiry or criminal proceeding, such suspension order even if passed by authority other than appointing authority, does not come under the purview of s 17.⁸

18. Substitution of Functionaries—In any Orissa 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.

19. Successors—In any Orissa 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.

20. Official Chiefs and Subordinates—In any Orissa 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.

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

21. Construction of Orders, etc, Issued Under Enactments—Where, by any Orissa 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 contest, have the same respective meanings as in the Act conferring the power.

22. Power to Make to Include Power to Add to, Amend, Vary or Rescind Orders, Rules or Bye-laws—Where, by any Orissa 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 sanction and conditions (if any) to add to, amend, vary or rescind any notifications, orders, schemes, rules, bye-laws or forms so made or issued.

23. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactment—Where, by any Orissa Act, which is not

⁸ *Saila Behari Chatterjee v State of Orissa* AIR 1966 Ori 150, 153.

to come into operation on the passing thereof, a power is conferred to make rules or bye-laws or 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 after the passing thereof, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

24. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication—Where, by any Orissa 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:

- (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 person 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 Central Government or, as the case may be, the ⁹[state] government 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.

¹⁰**24-A. Provision For Laying of Rules Before the State Legislature**—(1) All rules made by the state government under an Orissa Act shall as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications if any, therein, the rules shall thereafter have effect only in such modified form, so, however, that such modification shall be without prejudice to the validity of anything previously done under the rules.

(2) Where any Central Act, in force, in or applicable to the State of Orissa and relating to matters with respect to which the State Legislature has power to make laws for the state, confers power on the state government to make rules thereunder, then subject to any express provision to the contrary in such Act,

⁹ Substituted by ALO 1050.

¹⁰ Inserted by Orissa Act 12 of 1976.

the provisions of sub-s (1) shall, so far as may be, apply to the rules made by the state government in exercise of that power.]

25. Continuation of Orders etc, Issued Under Enactments Repealed and Re-enacted—Where any enactment is repealed and re-enacted by an Orissa 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.

26. Publication of Orders and Notifications in the Gazette—Where in any Orissa 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

27. Recovery of Fines—Sections 63–70 of the Indian Penal Code (45 of 1860) and the provisions of the Code of Criminal Procedure (5 of 1898) 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 Orissa Act, or any rule or bye-law made under any Orissa Act, unless the Act, rule or bye-law contains an express provision to the contrary.

28. 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.

29. Meaning of 'Service by Post'—Where any Orissa 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, 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.

30. Citation of Enactment—(1) In any Orissa Act and in any rule, bye-law, instrument or document, made, under, or with reference to any Orissa 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 Orissa Act a description or citation 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.

31. 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 continuance or amendment affect the construction of such Acts, rules, or bye-laws.

32. Application of Acts or Ordinances and Regulations—The provisions of this Act shall apply—

- (a) in relation to any Ordinance promulgated by the Governor of Orissa under s 88 or s 89 of the Government of India Act 1935, as they apply in relation to Orissa 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 Orissa 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 Fifth Sch to the Constitution, as they apply in relation to Orissa, Acts made by the State Legislature:

Provided that cl (ii) of sub-s (1) of s 3 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*.

APPENDIX XIX

The Punjab General Clauses Act 1898¹

(PUNJAB ACT 1 OF 1898)

[11 May 1898; 15 July 1898]

An Act to shorten the language of Acts and for other matters.

WHEREAS it is expedient to shorten the language used in ²[Punjab Acts] and to make certain provisions for the construction of, and other matters relating to, such Acts; it is hereby enacted as follows:

PRELIMINARY

1. Short Title and Commencement—(1) This Act may be called the Punjab General Clauses Act 1898; and

(2) It shall come into force at once.

GENERAL DEFINITIONS

2. Definitions—In this Act, and in ³[all Punjab Acts] ⁴[***] 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;⁵

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- 1 For Statements of Objects and Reasons to East Punjab Act 40 of 1948, *East Punjab Gazette 1948*, extraordinary, p 531 and for proceeding in Assembly, *East Punjab Legislative Assembly Debates 1948*, Vol 3, p 697; and 1897, Pt 6, p 14: for Report of the Select Committee, see *ibid* 1898, Pt 5-A, p 1; for Proceedings in Council *ibid* 1897, Pt 6, p 4 and 1898 Pt 6, p 2.
 - 2 Substituted for the words 'all Acts of the Lieutenant-governor of the Punjab in Council' by Adaptation of Laws (third amendment) Order 1937.
 - 3 Substituted for the words, 'all Acts of the Lt Governor of the Punjab in Council' by the Government of India (Adaptation of Indian Laws) Order 1937.
 - 4 The words 'and East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.
 - 5 Central Act 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 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) ⁶[***];
- (6) 'British possession' shall mean any part of her majesty's dominions, exclusive of the United Kingdom, and 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 British possession;
- (7) 'chapter' shall mean a chapter of the Punjab Act ⁷[***] in which the word occurs;
- (8) ⁸[***];
- (9) 'Collector' shall mean the chief-officer-in-charge of the revenue administration of a district and shall include a deputy commissioner;
- ⁹(10) 'colony'—
- (a) in any Punjab Act passed after the commencement of part 3 of the Government of India Act 1935, ¹⁰[***] shall mean any part of Her Majesty's Dominion exclusive of the British Islands, the Dominion of India and Pakistan (and before the establishment of those Dominions of British India), any Dominion as defined in the Statute of Westminster 1931, and province or state forming part of any of the said Dominions of British Burma; and
- (b) in any Punjab Act passed before the commencement of part 3 of the said Act, mean any part of Her Majesty's Dominion exclusive of the British Islands and of British India;

and in either case where parts of all these Dominions are under both a Central or local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, deemed to be one colony.];

- 6 The definition of 'British India' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 7 The words 'or East Punjab Acts' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts), Order 1948, were omitted by the Adaptation of Laws (third Amendment) Order 1951.
- 8 The definition of 'Chief Court' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 9 Substituted for the old cl (10) by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 10 The words 'or East Punjab Act' omitted by the Adaptation of Laws (third amendment) Order 1951.

- (11) 'commencement' used with reference to a Punjab Act, ¹¹[***] shall mean the day on which the Act comes into force;
- (12) 'comissioner' shall mean the chief officer-in-charge of the revenue and general administration of a division;
- (13) '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;
- (14) 'Deputy Commissioner' shall mean the chief-officer-in-charge of the general administration of a district;
- (15) ¹²['district judge' shall mean the judge of a principal civil court of original jurisdiction; but shall not include the 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 than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter;
- (16a) ¹³[***];
- (17) 'enactment' shall include any provision contained in any Punjab Act ¹⁴[***];
- (18) 'father', in the case of any one whose personal law permits adoption, shall include an adoptive father;
- (19) 'Financial Commissioner' shall mean the Financial Commissioner of ¹⁵[Punjab] for the time being;
- (20) 'financial year' shall mean the year commencing on the 1 April;
- (21) ¹⁶[***];
- (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;
- (23) 'government' or 'the government' shall include the ¹⁷[state government] as well as the ¹⁸[Central Government];

11 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

12 Substituted for the old clause by Act 6 of 1918, s 50.

13 Clause (16a) inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, was omitted by the Adaptation of Laws (third amendment) Order 1951.

14 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

15 Substituted for the words 'East Punjab' which had been inserted for the words, 'the Punjab' by the Indian Independence (Adaptation of Bengal and East Punjab Acts) Order 1948, by the Adaptation of Laws Order 1950.

16 The definition of 'Gazette' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.

17 Substituted for the words 'Provincial' by AO 1950.

18 Substituted for the words 'Government of India' by the Government of India (Adaptation of Indian Laws) Order 1937.

- (24) ¹⁹[***];
- (25) ²⁰[***];
- (26) '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;
- (27) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code;²¹
- (28) ²²[***];
- (29) ²³[***];
- (30) '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;
- (31) ²⁴[***];
- (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;²⁵
- (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;
- (34) 'month' shall mean a month reckoned according to the British calendar;
- (35) 'movable property' shall mean property of every description except immovable property;
- (36) 'notification' shall mean a notification published under proper authority in ²⁶[the *Official 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 to the Punjab Act ²⁷[***] in which the word occurs;
- (40) 'person' shall include any company or association or body of individuals, whether incorporated or not;

- 19 The definition of 'Government of India' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 20 The definition of 'Her Majesty or the Queen' was omitted by Adaptation of Laws (third amendment) Order 1951.
- 21 Unrepealed Central Acts, Vol 1.
- 22 Ibid.
- 23 The definition of 'India Act' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 24 The definition of 'Local Government' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 25 Now Act 5 of 1898, see unrepealed Central Acts, Vol 4.
- 26 Substituted for the word '*Gazette*' by the Government of India (Adaptation of Indian Laws) Order 1937.
- 27 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

- (41) ²⁸['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 in a Pt B State, any officer appointed by the Central Government to exercise all or any of the powers of the Political Agent under the Act or Regulation in which the expression occurs];
- (42) ²⁹[***];
- (43) ³⁰[***];
- (44) 'public nuisance' shall mean a public nuisance as defined in the ³¹Indian Penal Code;
- (45) ³²[***];
- ³³(46) 'Punjab Act' shall mean an Act made by the Lieutenant-Governor of the Punjab 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 Punjab under the Government of India Act, or by the Provincial Legislature or the Governor of the Punjab, ³⁴[or by the Provincial Legislature or the Governor of East Punjab under the Government of India Act 1935, or by the Legislature of Punjab under the Constitution];
- (47) 'registered', used with reference to a document, shall mean registered in ³⁵[a part A state or a part C state] under the law for the time being in force for the registration of documents;
- (48) '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;
- (49) 'schedule' shall mean a schedule to the Punjab Act ³⁶[***] in which the word occurs;

- 28 The old cl (41) was substituted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948 and the clause so substituted was again substituted by the present clause by the Adaptation of Laws (third amendment) Order 1951.
- 29 The definition of 'Privy Council' was omitted by the Adaptation of Laws (third amendment) Order 1951.
- 30 The definition of 'Province' was omitted by the Adaptation of Laws (third amendment) Order 1951.
- 31 Unrepealed Central Acts, Vol 1.
- 32 The definition of 'Bengal' was omitted by the Government of India (Adaptation of Indian Laws) Order 1937.
- 33 Substituted for the old definition by the Government of India (Adaptation of Indian Laws) Order 1937.
- 34 Substituted for the words 'under the Government of India Act 1935' by the Adaptation of Laws (third amendment) Order 1951.
- 35 Substituted for the words 'a Province of India' by the Adaptation of Laws (third Amendment) Order 1951. The words 'a Province of India' has been substituted for the words 'British India' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.
- 36 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third Amendment) Order 1951.

- (50) 'scheduled district' shall mean a scheduled district as defined in the Scheduled Districts Act 1874;³⁷
- (51) 'section' shall mean a section of the Punjab Act ³⁸[***] in which the word occurs;
- (52) 'ship' shall include every description of vessel used in navigation not exclusively propelled by oars;
- (53) '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;
- (54) 'son' in the case of any one whose personal law permits adoption, shall, include an adopted son;
- (55) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (56) '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;
- (57) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (58) 'Will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (59) 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
- (60) 'year' shall mean a year reckoned according to the British calendar.

GENERAL RULES FOR CONSTRUCTION

3. Coming into Operation of Enactments—³⁹[Where any Punjab Act is not expressed to come into operation on a particular day, then—

- (a) in the case of a Punjab 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
- (b) in the case of a Punjab 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*;

37 *Unrepealed Central Acts*, Vol 2.

38 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

39 Substituted for the old section by the Adaptation of Laws (third amendment) Order 1951.

and in every such Act the date of the first publication thereof shall be printed either above or below the title of the Act and shall form part of every such Act].

4. Effect of Repeal—Where this Act or any Punjab Act ⁴⁰[***] repeals any enactment, 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.

41[4-A. Repeal of Act Making Textual Amendment in Act—Where any Punjab Act made after the commencement of this Act ⁴²[***] repeals any enactment by which the text of any Punjab Act ⁴³[***] 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.]

5. Revival of Repealed Enactments—In any Punjab Act ⁴⁴[***] it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed expressly to state that purpose.

6. Construction of References to Repealed Enactments—Where this Act, or any other Punjab Act, ⁴⁵[***] repeals and re-enacts, with or without modification, any provision of a former enactment, then 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.

40 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

41 Inserted by East Punjab Act, 40 of 1948, s 2.

42 The words 'or East Punjab Act' inserted by the India (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

43 Ibid.

44 Ibid.

45 Ibid.

7. Commencement and Termination of Time—In any Punjab Act, ⁴⁶[***] 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'.

8. Computation of Time—Where, by any Punjab Act, ⁴⁷[***] 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 1877,⁴⁸ applies.

9. Measurement of Distances—In the measurement of any distance, for the purposes of any Punjab Act, ⁴⁹[***] that distance shall unless a different Intention appears, be measured in a straight line on a horizontal plane.

10. Duty to be Taken 'pro rata' in Enactments—Where by any enactment now in force or hereafter to be in force, any duty of custom 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 leviable according to the same rate on any greater or less quantity.

11. Gender and Number—In all Punjab Acts, ⁵⁰[***] 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.

POWERS AND FUNCTIONARIES

12. Powers Conferred on the State Government to be Exercisable From Time to Time—Where, by any Punjab Act, ⁵¹[***] any power is conferred ⁵²[***] then that power may be exercised from time to time as occasion requires.

13. Power to Appoint to Include Power to Appoint 'ex officio'—Where, by any Punjab Act, ⁵³[***] any power to appoint any person to fill any office or execute any

46 Ibid.

47 Ibid.

48 Now the Indian Limitation Act 1963.

49 The words 'or East Punjab Act' inserted by the India (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

50 The words 'or East Punjab Act' omitted by the Adaptation of Laws Order 1951.

51 Ibid.

52 The words 'on the Provincial Government' were omitted by the East Punjab Act (40 of 1948), s. 3.

53 The words 'or East Punjab Act' omitted by the Adaptation of Laws Order 1951.

function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

14. Power to Appoint to Include Power to Suspend or Dismiss—Where, by any Punjab Act ⁵⁴[***] a power to make any appointment is conferred, then, unless a different Intention appears, the authority having ⁵⁵[for the time being] power to make the appointment shall also have power to suspend or dismiss any person appointed ⁵⁶[whether by itself or any other authority] by it in exercise of that power.

15. Substitution of Functionaries—In any Punjab Act ⁵⁷[***] 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.

16. Successors—In any Punjab Act, ⁵⁸[***] 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.

17. Official Chiefs and Subordinates—In any Punjab Act, ⁵⁹[***] it shall be sufficient, for the purpose of expressing that a law relating 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.

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

18. Construction of Orders, etc Issued Under Enactments—Where, by any Punjab Act ⁶⁰[***], a power to issue any ⁶¹[notification], order, scheme, rule, form or bye-law is conferred, then expressions used in the ⁶²[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.

19. Power to Make to Include Power to Add, to Amend, Vary or Rescind, Orders, Rules or Bye-laws—Where, by any Punjab Act ⁶³[***] a power to ⁶⁴[issue notification, or] make orders, rules or bye-laws is conferred, then that power includes

54 Ibid.

55 Inserted by East Punjab Act (40 of 1948) s 4(i).

56 Ibid s 4(ii).

57 The words 'or East Punjab Act' omitted by the Adaptation of Laws Order 1951.

58 Ibid.

59 Ibid.

60 The words 'or East Punjab' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, was omitted by the Adaptation of Laws (third amendment) Order 1951.

61 Inserted by East Punjab Act (40 of 1948), s 5.

62 Ibid s 6(i).

63 The words 'or East Punjab' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, was omitted by the Adaptation of Laws (third amendment) Order 1951.

64 Ibid s 6(i).

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 order, ⁶⁵[notification], rules, or bye-laws so ⁶⁶[issued or] made.

20. Making of Rules or Bye-laws and Issuing of Orders Between Passing and Commencement of Enactments—Where, by any Punjab Act ⁶⁷[***] which is not to come into force 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 after the passing of the Act, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

21. Provisions Applicable to Making of Rules or Bye-laws After Previous Publication—Where by any Punjab Act ⁶⁸[***] 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, unless such Act otherwise provides, 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 ⁶⁹[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 ⁷⁰[*Official Gazette*] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws

65 Ibid s 6(ii).

66 Ibid s 6(iii).

67 The words 'or East Punjab' inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, was omitted by the Adaptation of Laws (third amendment) Order 1951.

68 Ibid.

69 Substituted for the words 'Central Government or, as the case may be, the Provincial Government' by the Adaptation of Laws (third amendment) Order 1951.

70 Substituted for the word "Gazette" by the Government of Indian Independence (Adaptation of Indian Laws) Order 1937.

after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

22. Continuation of Orders, etc, Issued Under Enactments Repealed and Re-enacted—Where, any Punjab Act ⁷¹[***] is repealed and re-enacted with or without modification, then unless it is otherwise expressly provided, any ⁷²[appointment notification] order, scheme, rule form or bye-law, ⁷³[made or] issued under the repealed Act, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force and be deemed to have been ⁷⁴[made or] issued under the provision so re-enacted, unless and until it is superseded by any ⁷⁵[appointment notification] order, scheme, rule, form or bye-law ⁷⁶[made or] issued under the provisions so re-enacted.

MISCELLANEOUS

23. Recovery of Fines—Sections 63–70 of the ⁷⁷[Indian Penal Code] and the provisions of the ⁷⁸[Code of Criminal Procedure] for the time being in force in relation to the issue and the execution of warrants for the levy of fine shall apply to all fines Imposed under any Act, rule or bye-law unless the Act, rule or bye-law contains an express provision to the contrary.

24. Provision as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence 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.

25. Meaning of Service by Post—Where, any Punjab Act ⁷⁹[***] 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.

26. Citation of Enactments—(1) In any Punjab Act ⁸⁰[***] 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

71 The words 'or East Punjab Act' inserted by the Indian Independence (Adaptation of Bengal and Punjab Act) Order 1948, were omitted by the Adaptation of Laws (third Amendment) Order 1951.

72 Inserted by East Punjab Act (40 of 1948), s 7(i).

73 Ibid s 7(ii).

74 Ibid.

75 Inserted by East Punjab Act (40 of 1948), s 7(i).

76 Ibid s 7(ii).

77 Unrepealed Central Acts, Vol 1.

78 Now Act 5 of 1898, unrepealed Central Acts, Vol 4.

79 The words 'or East Punjab Act' ins by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, were omitted by the Adaptation of Laws (third amendment) Order 1951.

80 Ibid.

thereon or by reference to the number and year thereof, and any provision in any enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In any Punjab Act ⁸¹[***] a description or citation of a portion of another enactment, shall, unless a different Intention appears, 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.

⁸²[27. Application of Act to Ordinances and Regulations—(1) The provisions of this Act shall apply—

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

(2) The provisions of s 4 and 4A of this Act shall apply on the expiry, withdrawal or repeal of any Ordinance promulgated by the Governor of the Punjab under s 88 or 89 of the Government of India Act 1935, or by the Governor of Punjab under s 88 of the said Act, or by the Governor of Punjab under art 213 of the Constitution as if such Ordinance has been an enactment, repealed by a Punjab Act.]

81 Ibid.

82 Substituted for the old section which had been amended by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948, and by East Punjab Act (40 of 1948), by the Adaptation of Laws (third amendment) Order 1951.

APPENDIX XX

The Rajasthan General Clauses Act 1955

(RAJASTHAN ACT NO 8 OF 1955)

[Received the assent of the President on the 5 August 1955]

An Act to provide for and facilitate the interpretation of Rajasthan Laws and make other provisions relating thereto.

WHEREAS it is expedient to provide for and facilitate the interpretation of Rajasthan laws, to shorten the language used therein and to make certain other provisions relating to such laws;

Be it enacted by the Rajasthan State Legislature in the sixth year of the Republic of India as follows:

PRELIMINARY

1. Short Title and Commencement—(1) This Act may be called the Rajasthan General Clauses Act 1955.

(2) It shall come into force on the date of its first publication in the *Rajasthan Gazette*.

2. Repeal—The Jaipur General Clauses Act 1944, the Alwar State General Clauses Act 1944, the Mewar General Clauses Act 1945, the Marwar General Clauses Act 1948 and other corresponding laws ¹[in force in the covenanting states or in the Ajmer area or in the Abu area or in the Sunel area] are hereby repealed.

3. References to General Clauses Act 1897—References made in any Rajasthan law to, or to the provisions of the General Clauses Act 1897 (Act 10 of 1897) of the Central Legislature shall be deemed to be references to, or to the corresponding provisions of this Act:

Provided that nothing contained in this act shall affect the operation of the General Clauses Act 1897 (10 of 1897) of the Central Legislature, with reference to such Rajasthan law, previously to the commencement of this Act, ²[or in the case of laws in force in the Ajmer area or in Abu area or in the Sunel area the commencement of the Rajasthan General Clauses (Amendment) Act 1957].

1 Substituted by s 2 of Rajasthan Act 45 of 1957.

2 Inserted by Rajasthan Act 45 of 1957, s 3.

4. Application—Unless otherwise expressly provided or unless the context otherwise requires, the provisions of this Act shall apply—

- (i) to this Act;
- (ii) to all Rajasthan laws ³[in force in the Pre-reorganisation State of Rajasthan] made after the commencement of this Act;
- (iii) to all Central Acts adapted to Rajasthan from time to time, by the Rajasthan State Legislature;
- (iv) where any such law or Act confers upon any authority a power to make rules, regulations or bye-laws to such rules, regulations or bye-laws ⁴[***];
- (v) so far as may be, to all Rajasthan laws ⁵[in force in the Pre-reorganisation State of Rajasthan] pertaining to Lists two and three of the Seventh Schedule to the Constitution made before the commencement of this Act and to any rules, regulations or bye-laws thereunder, ⁶[and];
- ⁷(vi) to all Rajasthan laws and to rules, regulations and bye-laws thereunder made on or after the 1 November 1956].

GENERAL RULES OF CONSTRUCTION

5. Coming into Operation of Rajasthan Law—(1) Where any Rajasthan Law made after ⁸[the 1 November 1956] is not expressed to come into operation on a particular day, then it shall come into operation—

- (a) if it is an Act of the State Legislative Assembly, on the day on which the assent thereto of the ⁹[Governor] or the President, as the case may require, is first published in the *Rajasthan Gazette*, and
- (b) if it is an Act or Ordinance of the ¹⁰[Governor] or the President, on the day on which it is first published as such Act or Ordinance in the *Rajasthan Gazette*.

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

6. Effect of Repeal—Where any Rajasthan law 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

3 Inserted by Rajasthan Act 45 of 1957, s 4.

4 Omitted by Rajasthan Act 45 of 1957.

5 Omitted by Rajasthan Act 45 of 1957, s 4.

6 Substituted by *ibid*.

7 Substituted by s 4, *ibid*.

8 *Ibid*.

9 *Ibid*.

10 *Ibid*.

- (b) after 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 fine, 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, 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 law had not been passed.

(2) The provisions of this section shall also apply upon the expiry or withdrawal of any Rajasthan law ¹¹[as if such law had not expired or, as the case may be, had not been withdrawn]:

Provided that the provision contained in cl (a) of sub-s (1) shall not so apply.

Comment

The proceedings and cases which were initiated under Rajasthan Tenancy Act 1955 and were pending when Rajasthan imposition of Ceiling on Agricultural Land Holding Act 1973 which repealed certain provisions of the said 1955 Act, held, are to be governed by old law. And rights of the state which have accrued to it before coming into force of above-mentioned new Act were held protected under s 6 of Rajasthan General Clauses Act.¹²

7. Repeal of Laws Making Textual Amendments—Where any Rajasthan law repeals any enactment by which the text of any law 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—In any Rajasthan law 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.

9. Construction of References to Repealed Enactments—Where any Rajasthan law repeals and re-enacts, with or without modification, any former enactment or any provision thereof, then references in any other enactment or in any instrument to the enactment or provision so repealed shall, unless a different intention appears be construed as references to the enactment or provision, as the case may be, so re-enacted.

10. Commencement and Termination of Time—In any Rajasthan law, 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'.

¹¹ Substituted by Rajasthan Act 49 of 1958.

¹² *Banshi Dhar v State* AIR 1977 Raj 46, 56 (FB).

Comment

While computing seven days' time for inviting objections against draft rules from the date of publication in the *Gazette*, the date of publication shall be excluded.¹³

11. Computation of Time—Where, by any Rajasthan law, 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 (Central Act 9 of 1908) applies.

Comment

Where a period prescribed for payment or decretal amount expired during summer vacations of the court, the deposit on the day courts reopened is valid deposit and shall be treated within time allowed.¹⁴ Similarly where time allowed for deposit of rent expired during winter vacations the deposit made on first opening day after vacations is a valid deposit in view of the s 11 of Rajasthan General Clauses Act 1955.¹⁵

12. Measurement of Distances—In the measurement of any distance for the purposes of any Rajasthan law, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

13. Duty to be taken *pro rata*—Where, by any Rajasthan law, 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.

14. Gender and Number—In all Rajasthan laws, unless a different intention appears—

- (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.

POWERS AND FUNCTIONARIES

15. Power or Duty to be Exercisable From Time to Time—Where, by any Rajasthan law, any power is conferred or any duty is imposed then, unless a different intention appears, that power may be exercised and that 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 a Rajasthan law 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 Rajasthan law, a power to appoint any person to fill any office or execute any

13 *Rajasthan Matsya Vyavasayee Sangh v State of Rajasthan* AIR 1991 Raj 72, 81.

14 *Narain v Kani Bai* (1987) 1 Raj LR 58.

15 *Jagannath v Jodha Ram* 1980 Raj LW 42, 45.

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, Remove or Dismiss—Where, by any Rajasthan law, a power to make appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend, remove or dismiss any person appointed by itself or any other authority in exercise of that power.

19. Substitution of Functionaries—In any Rajasthan law 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.

20. Successors—In any Rajasthan law, it shall be sufficient for the purposes 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 Chief and Subordinates—In any Rajasthan law, 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.

Provisions as to notifications, orders, rules, etc, made under enactments

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

23. Power to Make or Issue to Include Power to Add to, Amend, Vary or Rescind Orders, etc—Where, by any Rajasthan law, a power to make or issue orders, rules, regulations, schemes, forms, 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, regulations, schemes, forms, bye-laws or notification so made or issued.

24. Making of Rules, etc, and Issuing of Orders Between Passing and Commencement of Enactments—Where, by any Rajasthan law, which is not to come into operation immediately on the passing thereof, a power is conferred to make rules, regulations or bye-laws, or to issue orders with respect to the application of such law, 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 such law, then that power may be exercised at any time after the passing of such law, but rules, regulations, bye-laws or orders so made or issued shall not take effect till the commencement of such law.

25. Publication of Orders, etc, in *Rajasthan Gazette* to be Deemed to be Due Publication—Where, in any Rajasthan law, or any rule, regulation or bye-law made thereunder it is directed that any rule, regulation, bye-law, notification, order, scheme, form or other matter shall be notified or published, then such notification or publication shall, unless such law, rule, regulation or bye-law otherwise provides, be deemed to be duly made if it is published in the *Rajasthan Gazette*.

26. Provisions Applicable to Making of Rules, etc, After Previous Publication—Where, by any Rajasthan law, a power to make rules, regulations or bye-laws is expressed to be given subject to the condition of the rules, regulations, bye-laws, being made after previous publication, then unless such law otherwise provides, the following provisions shall apply namely—

- (1) the authority having power to make the rules, regulations or bye-laws shall, before making them, publish a draft of the proposed rules, regulations 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 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, regulations or bye-laws, and, where the rules, regulations 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, regulations or bye-laws from any person with respect to the draft before the date so specified;
- (5) the publication in the *Rajasthan Gazette* of a rule, regulation, bye-law purporting to have been made in exercise of a power to make rules, regulations or bye-laws after previous publications shall be conclusive proof that the rule, regulation or bye-law has been duly made.

16[26-A. Laying of Rules Before the State Legislature—(1) All rules made by the state government under a Rajasthan Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form without prejudice to the validity of anything previously done under the rules.

(2) Where any Central Act, in force in or applicable to the State of Rajasthan and relating to matters with respect to which the State Legislature has power to make laws for the state, confers power on the state government to make rules thereunder, then, subject to any express provision to the contrary in such Act, the provisions of sub-s (1) shall, so far as may be, apply to the rules made by the state government in exercise of that power].

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

Comment

Section 27 can not be availed of to save the statute made by delegated powers of legislation which is repealed by the legislature itself.¹⁷

MISCELLANEOUS

28. Recovery of Fines—Sections 63–70 of the Indian Penal Code 1860 (Act 45 of 1860) and the provisions of the Code of Criminal Procedure 1898 (Central Act 5 of 1898) in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Rajasthan law or any rule, regulation or bye-law made under any Rajasthan law unless such law, rule, regulation or bye-law contains an express provision to the contrary.

29. Provision as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence 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.

30. Meaning of Service by Post—Where any Rajasthan law 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.

31. Citation of Enactments—(1) In any Rajasthan law and in any rule, regulation, bye-law, instrument or document made under, or with reference to, any such law 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 Rajasthan law, 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.

¹⁷ *DC Jain v University of Jodhpur* AIR 1977 Raj 89, 95, 1976 WLN 820.

GENERAL DEFINITIONS

32. Definitions—(1) Unless there be anything repugnant in the subject or context or unless the contrary intention appears, the following expressions shall have the meanings respectively assigned to them hereby, namely—

- (1) 'abet', with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code (Central Act 45 of 1860);
- (1A) 'Abu area' shall mean the territory comprised in the Abu Road of Banas Kantha district in the State of Bombay as it existed immediately before the 1 November 1956;
- (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 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;
- (3A) 'Ajmer area' shall mean the territories of the State of Ajmer as it existed immediately before the 1 November 1956;
- (4) 'barrister' shall mean a Barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;
- (5) 'Board' or 'the Board' or 'the Board of Revenue' or 'the Revenue Board' shall mean the Board of Revenue for Rajasthan established and constituted in accordance with ¹⁸[any law for the time being in force];
- (6) 'British India' shall mean—
 - (i) as respects the period before the commencement of Pt 3 of the Government of India Act 1935, all territories and places within His Majesty's dominions which were being governed by His Majesty through the Governor-General of India or through any Governor or officer subordinate to the Governor-General of India and
 - (ii) as respects any period after such commencement and before the establishment of the Dominion of India, all territories for the time being comprised within the governor's provinces and the chief commissioner's provinces;
- (7) 'Central Act' shall mean an Act of Parliament and shall include—
 - (a) an Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of the Constitution; and
 - (b) an Act made before such commencement by the Governor-General-in-Council or the Governor-General acting in a legislative capacity;
- (8) 'Central Government' shall—
 - (a) in relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General-in-Council, as the case may be;
 - (b) in relation to anything done or to be done after the commencement of the Constitution, mean the President;

18 Substituted by Rajasthan Act 45 of 1957, s 7.

and shall include, in relation to functions entrusted under cl (1) of art 258 of the Constitution to the government of a state, the state government acting within the scope of the authority given to it under that clause;

- (9) 'Central Legislature' shall mean—
- (i) as respects before the period the establishment of the Dominion of India;
 - (a) the Governor-General-in-Council acting in a legislative capacity under the Government of India Act 1833 or the Government of India Act 1853 or the Indian Councils Acts 1861 to 1909 or any of those Acts or the Government of India Act 1915; or
 - (b) the Indian Legislature acting under the Government of India Act 1919 or the Government of India Act 1935; or
 - (c) the Federal Legislature acting under the Government of India Act 1935, as the case may require;
 - (ii) as respects the period after such establishment and before the commencement of the Constitution, the Dominion Legislature; and
 - (iii) as respects the period after such commencement, the Parliament;
- (10) 'chapter' shall mean a chapter of the enactment in which the word occurs;
- (11) 'Chief Controlling Revenue Authority' or 'Chief Revenue Authority' shall mean the Board of Revenue;
- (12) 'collector' shall mean the chief-officer-in-charge of the revenue administration of a district;
- (13) 'commencement' used with reference to an enactment, shall mean the day on which such enactment came or comes into force;
- (14) ¹⁹[***];
- (15) 'Constitution' shall mean the Constitution of India;
- (16) 'covenant' shall mean the Covenant entered into, with the concurrence and guarantee of the Central Government, by the rulers of the Covenanting States of Banswara, Bikaner, Bundi, Dungarpur, Jaipur, Jaisalmer, Jhalawar, Jodhpur, Kishangarh, Kotah, Mewar, Paratabgarh, Shahpura and Tonk, thereby establishing the State of Rajasthan, as supplemented by the agreement made with the like concurrence and guarantee between the Rajpramukh of Rajasthan, the Rajpramukh of the former Matsya State and the Rulers of the Covenanting States of Alwar, Bharatpur, Dholpur and Karauli for the inclusion in and Integration with State of Rajasthan of the last mentioned four Covenanting States, and shall include, where the context so requires, the Covenant establishing the former Rajasthan States or the Covenant establishing the former Matsya state;
- (17) 'Covenanting State' shall mean and include any of the Indian States of Alwar, Banswara, Bharatpur, Bikaner, Bundi, Dholpur, Dungarpur, Jaipur, Jaisalmer, Jhalawar, Jodhpur, Karauli, Kishangarh, Kotah, Mewar, Partabgarh, Shahpura, Sirohi and Tonk;

¹⁹ Omitted by Rajasthan Act 8 of 1962

- (18) 'district' shall mean and include the territorial limits of a district in Rajasthan under the administrative charge of a collector, formed or deemed to be formed under [any law for the time being in force];
- (19) 'District Court' shall mean the principal civil court of original jurisdiction of a district constituted for the purpose, but shall not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (20) 'District Judge' shall mean the judge of a district court;
- (21) ²⁰[***];
- (22) 'document' shall include any matter written, expressed, inscribed or described upon any substance by means of letters, figures, or by 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;
- (23) 'dominion' or 'Dominion of India' shall mean the Dominion of India established by the Indian Independence Act 1947 of the British Parliament;
- (24) 'Dominion Government' shall mean the government of the Dominion of India;
- (25) 'dominion legislature' shall mean the Legislature of the Dominion of India acting under the Government of India Act 1935, as adapted by the Indian (Provisional Constitution) Order 1947;
- (26) 'enactment' shall mean any law and shall include any provision contained in any law;
- (27) 'father', in the case of anyone whose personal law permits adoption shall include an adoptive father;
- (28) 'financial year' shall mean the year commencing on the 1 April and ending on the 31 March next following;
- (29) 'former Matsya State' shall mean the United State of Matsya established by the Covenant entered into by the Rulers of the Covenanted State of Alwar, baratpur, Dholpur and Karauli;
- (30) 'former Rajasthan State' shall mean the United State of Rajasthan established by the Covenant entered into by the Rulers of the Covenanted States of Banswara, Bundi, Dungarpur, Jhalawar, Kishangarh, Kotah, Mewar, Partabgarh, Shahpura and Tonk;
- (31) '*Gazette*' or '*Official Gazette*' or '*Rajasthan Gazette*' or '*Rajasthan Rajpatra*' shall mean the *Rajasthan Gazette* published in pursuance of ²¹[any law for the time being in force under the authority of the state government];
- (32) 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;
- (33) 'government' or 'the Government' shall include both the Central Government and any state government;
- (34) 'Government securities' shall mean the securities of the Central Government or any state government;

20 Omitted by Rajasthan Act 8 of 1962.

21 Substitution by Rajasthan Act 45 of 1957, s 7.

- ²²[(34A) 'Governor' means as respects the period on, or after the 1 November 1956, the Governor of Rajasthan];
- (35) 'growing crops' shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon and juice in, trees and shrubs;
- (36) 'High Court' shall mean the High Court of Judicature for Rajasthan;
- (37) 'immovable property' shall include land, benefits to arise out of land and anything attached to the earth, or permanently fastened to anything attached to the earth but shall not include standing timber, growing crops or grass;
- (38) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code (Central Act 45 of 1860);
- (39) 'India' shall mean—
- (a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler and the tribal areas;
 - (b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and
 - (c) as respects any period after the commencement of the Constitution all territories for the time being comprised in the territory of India;
- (40) 'Indian State' shall mean any territory which the Central Government recognised as such before the commencement of the Constitution, whether described as a state, an estate, *Jagir* or otherwise, and shall include every Covenanted State;
- (41) 'law' shall mean any law, Act, ordinance, regulation, rule, notification, order, bye-law, scheme, or other instrument having for the time being the force of law;
- (42) 'Legislative Assembly' or 'State Legislative Assembly' shall mean the Legislative Assembly formed for Rajasthan in accordance with the Constitution;
- (43) 'local authority' shall mean a municipal Board, committee, corporation or council, a district board, ²³[a zila parishad, a panchayat samiti] a panchayat or other authority legally entitled to, or entrusted by the government with, the control or management of a municipal or a local fund;
- (44) '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);
- (45) ²⁴[omitted]

22 Inserted, vide item (3) of Pt 1 of the Fourth Sch of the Rajasthan Adaptation of Laws (on state and Concurrent Subjects) Order 1956, published in the *Rajasthan Gazette*, Pt 4C, Extraordinary, dated the 1 November 1956.

23 Inserted by Rajasthan Act 37 of 1959.

24 Vide item No (4) of Pt 1 of the Fourth Schedule of Rajasthan adaptation of laws (on state and Concurrent Subjects) order 1956, published in the *Rajasthan Gazette*, Pt 4C, Extraordinary, dated the 1 November 1956.

- (46) 'month' shall mean a month reckoned according to the British calendar;
- (47) 'movable property' shall mean property of every description, except immovable property;
- (48) 'notification' or 'public notification' shall mean a notification published under proper authority in the *Gazette*;
- (49) 'oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (50) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (51) 'ordinance' shall mean and include—
- (a) as respects any period before the commencement of the Constitution—
 - (i) an Ordinance lawfully made and promulgated by the Ruler or the government of a Covenanting State;
 - (ii) an Ordinance made and promulgated by the *Rajpramukh* of the former Rajasthan state in pursuance of the Covenant;
 - (iii) an ordinance likewise made and promulgated by the *Rajpramukh* of the former Matsya State; and
 - (iv) an Ordinance likewise made and promulgated by the *Rajpramukh* of Rajasthan; and
 - ²⁵(b) as respects the period after such commencement, an Ordinance made and promulgated under and in accordance with the provisions of the Constitution—
 - (i) by the *Rajpramukh* up to the 31 October 1956; or
 - (ii) by the Governor on or after the 1 November 1956;
- (52) 'Parliament' shall mean the Parliament of India;
- (53) 'part' shall mean a part of the enactment in which the word occurs;
- (54) ²⁶[***];
- (55) ²⁷[***];
- (56) ²⁸[***];
- (57) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- ²⁹[57A] 'pre-reorganisation state of Rajasthan' shall mean the State of Rajasthan as it existed in pursuance of the Covenant or under the Constitution before the 1 November 1956;
- (58) 'prescribed' shall mean prescribed by rules made under any enactment;
- (59) 'Province' shall mean a Presidency or a Province of British India or of the Dominion of India;
- (60) 'Provincial Act' or 'Provincial Law' shall mean an Act or law duly made by the legislature or other competent authority of a Province;
- (61) 'Provincial Government' shall mean, as respects anything done before the commencement of the Constitution, the authority or person

25 Substituted by Rajasthan Act 45 of 1957, s 7.

26 Omitted by Rajasthan Act 45 of 1957.

27 Ibid.

28 Ibid.

29 Inserted by Rajasthan Act 45 of 1957.

- 22[(34A) 'Governor' means as respects the period on or after the 1 November 1956, the Governor of Rajasthan];
- (35) 'growing crops' shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon and juice in, trees and shrubs;
- (36) 'High Court' shall mean the High Court of Judicature for Rajasthan;
- (37) 'immovable property' shall include land, benefits to arise out of land and anything attached to the earth, or permanently fastened to anything attached to the earth but shall not include standing timber, growing crops or grass;
- (38) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code (Central Act 45 of 1860);
- (39) 'India' shall mean—
- (a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler and the tribal areas;
 - (b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and
 - (c) as respects any period after the commencement of the Constitution all territories for the time being comprised in the territory of India;
- (40) 'Indian State' shall mean any territory which the Central Government recognised as such before the commencement of the Constitution, whether described as a state, an estate, *Jagir* or otherwise, and shall include every Covenanted State;
- (41) 'law' shall mean any law, Act, ordinance, regulation, rule, notification, order, bye-law, scheme, or other instrument having for the time being the force of law;
- (42) 'Legislative Assembly' or 'State Legislative Assembly' shall mean the Legislative Assembly formed for Rajasthan in accordance with the Constitution;
- (43) 'local authority' shall mean a municipal Board, committee, corporation or council, a district board, ²³[a zila parishad, a panchayat samiti] a panchayat or other authority legally entitled to, or entrusted by the government with, the control or management of a municipal or a local fund;
- (44) '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);
- (45) ²⁴[omitted]

22 Inserted, vide item (3) of Pt 1 of the Rajasthan Adaptation of Laws (on state and Concurrent Subjects) Order 1956, published in the *Rajasthan Gazette*, Pt 4C, Extraordinary, dated the 1 November 1956.

23 Inserted by Rajasthan Act 37 of 1959.

24 Vide item No (4) of Pt 1 of the Fourth Schedule of Rajasthan adaptation of laws (on state and Concurrent Subjects) order 1956, published in the *Rajasthan Gazette*, Pt 4C, Extraordinary, dated the 1 November 1956.

- ³²(67A) 'revenue appellate authority' shall mean the officer appointed as such authority under section 20A of the Rajasthan Land Revenue Act 1956 (Rajasthan Act 15 of 1956);
- (68) 'rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a non-statutory or other independent rule having for the time being the force of law;
- (69) 'Ruler in relation to an Indian state' shall mean the Prince, Chief or other person by whom any such Covenant or agreement as is referred to in cl (1) of art 291 of the Constitution was entered into and who for the time being is recognised by the President as the ruler of the state, and includes any person who for the time being is recognised by the President as the successor of such ruler;
- (70) 'Schedule' shall mean a Schedule to the enactment in which the word occurs;
- (71) 'section' shall mean a section of the enactment in which the word occurs;
- (72) '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;
- (73) 'Sirohi' or 'Sirohi state' shall mean such territories of the former Indian State of Sirohi as have not been merged in the State of Bombay under the States Merger (Bombay) Order 1950, made by the Governor-General of India in exercise of the power conferred by s 290A of the Government of India Act 1935, and the Administration whereof, having been delegated to the government of Rajasthan by means of notification No 20/P, dated the 24 January 1950, issued by the Central Government in the Ministry of States in exercise of the power conferred on it by sub-s (2) of s 3 of the Extra Provincial Jurisdiction Act 1947 of the Central Legislature and of all other powers enabling it in that behalf, was taken over and assumed by the government of Rajasthan in the afternoon of the 25 January 1950;
- (74) 'son' in the case of any one whose personal law permits adoption, shall include an adopted son;
- ³³(74A) 'State' used with reference to Rajasthan shall mean the new State of Rajasthan as formed by s 10 of the States Reorganisation Act 1956 (Central Act 37 of 1956);
- ³⁴(75) 'state government' shall mean in relation to anything done or to be done;
- (i) on and from the commencement of the Constitution until the 1 November 1956, the *Rajpramukh*, and
- (ii) on and from the 1 November 1956, the Governor]
- (76) 'State grant' shall mean a grant of land or any interest therein made by the Ruler of the government of a Covenanting State or recognised as

32 Inserted by Rajasthan Act 8 of 1962.

33 Inserted by Rajasthan Act 45 of 1957, s 7.

34 Substituted by AO 1956.

authorised at the relevant date to administer executive government in the Province in question;

- ³⁰[(62) 'Rajasthan' shall mean—
- (i) as respects the period before the 1 November 1956, the pre-reorganisation State of Rajasthan; and
 - (ii) as respects the period on and from the said day, the new State of Rajasthan as formed by s 10 of the States Reorganisation Act 1956 (Central Act 37 of 1956);
- (63) 'Rajasthan law' shall mean and include—
- (i) as respects any period on and after the 7 April 1949—
 - (a) an Ordinance made and promulgated by the *Rajpramukh* of Rajasthan in pursuance of the Covenant; or
 - (b) an Act made in the exercise of the power conferred by art 85 of the Constitution; or
 - (c) an Act so made with the assent of the President; or
 - (d) an Ordinance promulgated by the *Rajpramukh* of Rajasthan under art 213 of the Constitution; or
 - (e) an Act passed by the State Legislative Assembly which has received the assent of *Rajpramukh* or the President, as the case may require; and
 - (ii) as respects the period prior to the said day—
 - (a) an Ordinance made and promulgated by the *Rajpramukh* of the former Rajasthan state or of the former Matsya State in pursuance of the Covenant; or
 - (b) so far as may be, any law made by the ruler or a competent Legislature or other competent authority or officer of a Covenanted State;
- (64) 'Rajasthan State Legislature' or 'State Legislature' shall mean—
- (i) as respects the period before the State Legislative Assembly was duly constituted and summoned to meet for the first session, the *Rajpramukh* acting under the Covenant or under art 385 of the Constitution;
 - (ii) as respects any later period, the *Rajpramukh* and the State Legislative Assembly;
- (65) ³¹['*Rajpramukh*' shall, as respects any period before the 1 November 1956, mean the person who is for the time being the *Rajpramukh* of Rajasthan];
- (66) 'registered' used with reference to a document, shall mean registered in India under the law for the time being in force, for the registration of documents;
- (67) 'regulation' shall mean a regulation made in exercise of a power conferred by any enactment shall include a non-statutory or other independent regulation having for the time being the force of law;

³⁰ Substituted by Rajasthan Act 45 of 1957.

³¹ Substituted vide Item No (5) of Pt 1 of the Fourth Sch of Rajasthan Adaptation of Laws (on state and Concurrent Subjects) Order 1956, published in the *Rajasthan Gazette*, Pt 4C, *Extraordinary*, dtd the 1st November 1956.

APPENDIX XXI

The Madras General Clauses Act 1867

(MADRAS ACT 1 OF 1867)

[15 February 1867; 21 March 1867]

An Act to shorten the language used in Madras Acts and make certain provisions relating thereto.

PREAMBLE

WHEREAS it is expedient to enact once for all certain definition of terms usually employed in the Acts of the Governor of Fort St George in Council, and to make certain other provisions regarding such Acts; It is enacted as follows:

1. Meaning of Words Defined in Penal and Criminal Procedure Codes—Whenever, in any future Act of the Provincial Government of Madras, any word or expression shall be employed which has been defined in Chapter 2 of the Indian Penal Code or in Chap 1 of the Code of Criminal Procedure, such word or expression shall be taken to have the meaning assigned to it in those chapters, unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction.

2. 'Magistrate of Police'—First, the words 'Magistrate of Police' shall denote any person exercising the powers of a Magistrate of Police within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras for the time being.

Second 'Town of Madras'. The words, 'Town of Madras' shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

3. Repeal of Act Not to Revive Laws Repealed Thereby—Where any Act, repealing in whole or in part any former enactment, is itself repealed, such last repeal shall not revive the enactment, or any of the provisions thereof, before repealed, unless words be added reviving such enactment or provisions.

4. Matters Prior to Repeal Unaffected—The repeal of any Act or Regulation shall not affect any act which shall have been done, or any offence which shall have been

- having been so made, and shall include every such grant by whatsoever name designated;
- (77) 'state grantee' shall mean the holder for the time being of a state grant;
- (78) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- ³⁵[(78A) 'Sunel area' shall mean the territory comprised in the Sunel Tappa of Bhanpura *Tehsil* of Mandasaur district in the State of Madhya Bharat as it existed immediately before the 1 November 1956;]
- (79) '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;
- (80) 'thikana' shall mean a state grant recognised as *thikana*;
- (81) ³⁶[***];
- (82) 'vessel' shall include any boat or any other description of vessel used in navigation;
- (83) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (84) expressions referring to 'writing' shall be construed as including references to painting, lithography, photography, engraving, printing and other modes of representing or reproducing words in a visible form;
- (85) 'year' shall mean a year reckoned according to the British calendar.

(2) In the laws of each Covenanting State for the time being in force any reference to the Ruler or the government thereof shall, as from the date on which the *Rajpramukh* has taken over the administration of such state, be construed as a reference to the *Rajpramukh* or, as the case may be, to the government of Rajasthan:

³⁷[Provided that such reference to the ruler or government of a covenanting state shall be construed as from the 1 November 1956, as a reference respectively to the Governor or the state government].

35 Substituted by Rajasthan Act 45 of 1957, s 7.

36 Omitted by *ibid*.

37 Added by Rajasthan Act 45 of 1957, s 7.

APPENDIX XXII

*The*¹*[Tamil Nadu] General Clauses Act 1891*

(ACT 1 OF 1891)²

[3 April 1891; 14 May 1891]

An Act for further shortening the language used in Tamil Nadu Acts] and for other purposes

WHEREAS it is expedient to further shorten the language used in³[Tamil Nadu Act made] 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 the⁴[Tamil Nadu] General Clauses Act 1891 and

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

2. Saving Clause—Notwithstanding anything contained in the⁵[Tamil Nadu] General Clauses Act 1867, the provisions of that Act shall not apply to this Act or to any⁶[Tamil Nadu Act] which may be passed subsequent to the commencement of this Act.

Chapter 1

DEFINITIONS

3. Definitions—In this Act and every⁷[Tamil Nadu Act made] after the commencement of this Act, unless there be something repugnant in the subject or context,—

1 Substituted by Tamil Nadu AO 1969, for 'Madras'.

2 For statement of objects and reasons, *Fort St George Gazette*, Supplement, dtd 3 March 1891, 5; for Report of the Select Committee see *ibid*, dtd 10th *idem*, 1: for Proceedings in Council, see *ibid*, dtd 10th *idem*, 2 and *ibid*, dtd 7 April 1891, p 1.

3 Substituted by Tamil Nadu AO 1969, for 'Madras'.

4 *Ibid*.

5 *Ibid*.

6 *Ibid*.

7 *Ibid*.

omitted, or any fine or penalty which shall have been incurred or any proceedings which shall have been commenced, before the repealing Act shall have come into operation.

5. Commencement of Future Acts—Where in any future Act of the Provincial Government of Madras no time is mentioned at which the same shall come into operation, such Act shall take effect from such date as the Provincial Government may notify by publication in the *Official Gazette*.

6 and 7. Judicial Notice of Madras Acts: Recital of Public Fact to be 'prima facie' Evidence of its Truth—[Repealed by the repealing and Amending Act 1874 (14 of 1874)].

8. Short Title—This Act may be cited for all purposes as the Madras General Clauses Act 1867.

- entrusted by the government with, the control or management of a municipal or local fund;
- ¹³[(17A) ¹⁴['Tamil Nadu'] shall mean 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 Tamil Nadu under the Government of India Act 1915, ¹⁵[or by the Provincial Legislature of ¹⁶[Tamil Nadu] under the Government of India Act 1935, or by the Legislature of the State of ¹⁷[Tamil Nadu] under the Constitution].
- (18) 'magistrate' shall mean any person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure 1882.¹⁸
- (19) 'movable property' shall mean property of every description except immovable property;
- (19A) 'notification' shall mean a notification published in the *Official Gazette*;
- (20) 'oath' 'smear' and 'affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (21) 'offence' shall mean any act or omission made punishable by any law for the time being in force;
- (22) 'person' shall include any company or association of individuals, whether incorporated or not;
- (23) 'place' includes also a house, building, tent and vessel;
- (24) ¹⁹[***];
- (25) 'Presidency town' shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras;
- (26) 'Public' includes any class of the public or any community;
- (27) 'public nuisance' shall have the meaning assigned to that expression in s 268 of the Indian Penal Code;
- (28) ²⁰['registered' used with reference to a document, shall mean registered in a part A State or part C state under the law for the time being in force for the registration of documents];
- (29) '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;

13 Clause (17A) added by AO 1937.

14 Substituted by Tamil Nadu AO 1969 for words 'Madras'.

15 These words were substituted for the words 'or by the Provincial Legislature or the Governor of Madras under the Government of India Act 1935' by the Adaptation (Amendment) Order of 1950.

16 Substituted by Tamil Nadu AO 1969, for 'Madras'.

17 Ibid.

18 Now the Code of Criminal Procedure 1898 (Central Act 5 of 1898) (but now see Code of 1973).

19 Clause (24) was omitted by AO 1937.

20 This clause was substituted for the original cl (28) by the Adaptation (Amendment) Order of 1950.

- (30) in the case of any person whose personal law permits adoption, 'son' shall include an adopted son, and 'father' an adoptive father;
- (31) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (32) '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 suits for purposes of jurisdiction;
- (33) 'Will' shall include a codicil and every writing making a voluntary posthumous distribution of property;
- (34) words importing the masculine gender shall include females;
- (35) words in the singular shall include the plural, and words in the plural shall include the singular;
- (36) words which refer to acts done extend also to illegal omissions;
- (37) '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' shall respectively, mean a year and month reckoned according to the British calendar.

Chapter 2

GENERAL PROVISIONS APPLICABLE TO FUTURE ACTS

4. Application of Chapter 2 to All Future Acts—This Chapter shall apply to all ²¹[*(Tamil Nadu) Acts made] after the commencement of this Act, unless a contrary intention appears in such Acts.

²²[**5. Commencement of Future Acts**—²³(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.]

Comments

The government cannot be compelled to publish a *Bill* passed by legislature so long as the assent is not published in the *Gazette* as contemplated under s 5(1) of Tamil Nadu General Clauses Act.²⁴

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

21 These words were substituted for the words 'Acts made by the Governor of Fort St George in Council' by the Adaptation Order of 1937. Substituted by Tamil Nadu AO 1969, for 'Madras'.

22 This section was substituted for the original section by the Adaptation Order of 1937.

23 This sub-section was substituted for sub-s (1) by the Adaptation (Amendment) Order of 1950.

24 *S Kamraj v Government of Tamil Nadu* AIR 1991 Mad 182-97.

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 conditions of the rules being made after previous publication, the following provisions shall apply, namely—

- 7A. (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 ²⁵[Central Government or as the case may be, the ²⁶(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 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 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 ²⁷[*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 rules have been duly made.

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

25 These words were substituted for the word 'government' by the Adaptation Order of 1937.

26 This word was substituted for the words 'provincial' by the Adaptation Order of 1950.

27 The words [*'Official Gazette'*] were substituted for [*'Fort St George Gazette'*] by AO 1937.

- (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.

28[8-A. Effect of Repeal of Act Making Textual Amendment in Previous Act—Where any Act to which this Chapter applies, 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.]

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 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 or 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.

28 Section 8A was inserted by the Madras General Clauses (Amendment) Act 1936 (Madras Act 4 of 1937).

provided in the Act, ³⁶[the government] may, by notification in the ³⁷[*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 ³⁸[State] or cancel the order for extending or applying the same to such place or portion of the ³⁹[State]:

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 ⁴⁰[State] to which such order relates.

41[22-A. Constitution of References to Minister in Acts, etc]—Any reference to any minister (including the Chief Minister) in any Act or in any rule, notification, order, regulation, bye-laws or other instrument made or issued under such Act shall, during the period of operation of a proclamation issued by the President under art 356 of the constitution in respect of the State of Tamil Nadu, be construed as a reference to the governor or to such adviser to the governor or to such other officer, as the governor may, by notification, specify in this behalf, and different notifications may be issued in respect of different Acts and instruments made or issued thereunder.]

Chapter IV⁴²

43[23. Application to Ordinances and Regulations]—The provisions of this Act shall apply—

- (a) ⁴⁴[****];
- (b) in relation to any Ordinance promulgated by the governor under art 213 of the Constitution or any Regulation made by him under para 5 of the Fifth Sch to the Constitution in like manner as they apply in relation to ⁴⁵[Tamil Nadu] 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 ⁴⁶[official Gazette] were a reference instead to the day of the first publication of the ordinance in that *gazette*].

36 Substituted by the Adaptation Order of 1937.

37 These words were substituted for the words 'Fort St George Gazette' by the Adaptation Order of 1937.

38 The word 'Province' was substituted for words 'Presidency of Madras' by the Adaptation Order 1937 and the word 'State' was substituted for 'Province' by Adaptation Order of 1950.

39 The word 'Province' was substituted for words 'Presidency of Madras' by the Adaptation Order 1937 and the word 'State' was substituted for 'Province' by Adaptation Order of 1950.

40 Ibid.

41 Ins by President's Act 12 of 1976.

42 Chapter 4 was inserted by Adaptation Order of 1937.

43 This section was substituted for the original s 23 by the Adaptation (Amendment) Order of 1950.

44 Omitted by Madras Adaptation of Laws Order 1957.

45 Substituted by Tamil Nadu AO 1969 for 'Madras'.

46 These words were substituted for the words 'Fort St George Gazette' by the Adaptation Order of 1937.

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 the 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 Act Repealed and Re-enacted—Where an Act repeals and re-enacts, with or without notification, all or any of the provisions of a former Act, references in any other Act to the provision so repealed shall be construed as reference 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.

19. Recovery of Fines—The provisions of ss 63, 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, or 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 the³²[*Official Gazette*].

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,³³[any government] is empowered to extend or apply an Act, or any provision of an Act to any place in, or to any portion of the³⁴[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 the³⁵[State] to which it is so extended or applied; and unless it is otherwise

32 These words were substituted for the words 'Fort St George Gazette' by the Adaptation Order of 1937.

33 Substituted by the Adaptation Order of 1937.

34 The word 'Province' was substituted for words 'Presidency of Madras' by the Adaptation Order 1937 and the word 'State' was substituted for 'Province' by Adaptation Order of 1950.

35 Ibid.

APPENDIX XXIV

*The*¹*[Uttar Pradesh] General Clauses Act 1904*²

(UTTAR PRADESH ACT NO 1 OF 1904)

[Received the assent of the Lieutenant-Governor on the 28 November 1903, and of the Governor-General on the 7 January 1904, and was published³ under s 40 of the Indian Councils Act 1869, on the 23 January 1904].

An Act to consolidate and extend the⁴ [Uttar Pradesh] General Clauses Acts 1887 and 1896.

Whereas it is expedient to consolidate and extend the⁵ [Uttar Pradesh] General Clauses Acts 1887 and 1896;

It is hereby enacted as follows:

PRELIMINARY

1. Short Title and Commencement—(1) This Act may be called the⁶ [Uttar Pradesh] General Clauses Act 1904; and

(2) It shall come into force at once.

2. ⁷[***];

⁸[3. Application of the Act, to Other Enactment—(1) The provisions of this Act shall apply to this Act and to all Uttar Pradesh Acts, whether made before or after the commencement of this Act.

(2) The provisions of this Act in their application to any enactment or statutory instrument shall be subject to any contrary requirements of the context of the enactment or instrument that is to be interpreted.]

1 For SOR see *Gazette*, 1903, Pt 5, 46; for discussion see LC, pro in ibid, pp 72–240.

2 Ibid.

3 *Gazette* 1904, Pt 5, 1–12.

4 Substituted by Uttar Pradesh Act 54 of 1975.

5 Ibid.

6 Ibid.

7 Omitted by Uttar Pradesh Act 54 of 1975.

8 Substituted by ibid.

APPENDIX XXIII

The Tripura General Clauses Act 1966

(TRIPURA ACT NO 5 OF 1966)

An Act to provide for the application of the General Clauses Act 1897, for the interpretation of the Acts of the legislature of the Union Territory of Tripura

Be it enacted by the Legislative Assembly of Tripura in the 17th year of the Republic of India as follows:

1. Short Title, Extent and Commencement—(1) This Act may be called the Tripura General Clauses Act 1966.

(2) It extends to the whole of the Union Territory of Tripura.

(3) It shall come into force at once.

2. General Clauses Act 1897, to Apply to Acts of the Legislative Assembly of Tripura—Unless the context otherwise requires, the General Clauses Act 1897, shall apply for the interpretation of the Acts of the legislature of the Union territory of Tripura (whether enacted before or after the commencement of this Act), as it applies for the interpretation of a Central Act.

- ¹⁵[8A] 'clause' shall mean a sub-division (not being a sub-section) of the section or sub-section in which the word occurs;
- (9) 'collector' shall mean the chief officer in charge of the revenue administration of a district, and shall include a deputy commissioner and the superintendent, Dehra Dun;
- (10) 'commencement' used with reference to an Act shall mean the day on which the Act comes into force;
- (11) 'commissioner' shall mean the chief officer in charge of the revenue administration of a division;
- ¹⁶[(11A)] 'Constitution' shall mean the Constitution of India;
- (11B) 'daughter' in the case of any person the law applicable to whom permits the adoption of a daughter, shall include an adopted daughter;
- (11C) 'day' shall mean a period of twenty-four hours beginning at midnight;
- (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;
- ¹⁷[(12A)] 'District Magistrate' shall mean a person appointed as such under sub-s (1) of s 20 of the Code of Criminal Procedure 1975 and shall include the deputy commissioner of a district;
- (13) '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;
- (14) 'enactment' shall include a regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provisions contained in any Act or in any such regulation as aforesaid;
- (15) 'father' in the case of any one whose personal law permits adoption shall include an adoptive father;
- (16) 'financial year' shall mean the year commencing on the 1 April;
- (17) 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) 'Gazette' shall mean the *Official Gazette* for ¹⁸[Uttar Pradesh];
- ¹⁹[(19)] 'goods' shall include all materials, commodities and articles and shall also include electricity;
- (19A) 'government' shall include the Central Government and any state government;
- (19B) 'government securities' shall mean securities of the Central Government or of any state government;
- (19C) 'the government' shall mean the Governor of Uttar Pradesh;

¹⁵ Inserted by Uttar Pradesh Act 54 of 1975.

¹⁶ Ibid.

¹⁷ Inserted by UP Act 54 of 1975.

¹⁸ Ibid.

¹⁹ Substituted for 'United Provinces' by the AO 1950.

4. Definitions—In all [Uttar Pradesh]⁹ 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,¹⁰
- (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 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) 'Agra', shall mean the territories known as the ¹¹[North-western Provinces] previously to 22 March 1902;
- ¹²[(4A) 'agricultural year' shall mean the year commencing on the 1 July;]
- (5) 'Assistant Collector' shall include any Assistant Commissioner;
- (6) 'barrister' shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;
- (7) 'Board of Revenue' shall mean the Board of Revenue for ¹³[Uttar Pradesh];
- ¹⁴[(7A) 'Central Act' shall have the same meaning as in the General Clauses Act 1897;
- (7B) 'Central Government' shall have the same meaning as in the General Clauses Act 1897;]
- (8) 'Chapter' shall mean a chapter of the Act in which the word 'occurs';

9 Substituted for 'United Provinces' by the AO 1950:

This Act has been extended to the areas mentioned in column (1) of the table under the Act or order mentioned in column (2) and enforced in such areas under notifications, if any, mentioned in column (3) with effect from the date mentioned in column (4) against each such area:

<i>Area</i>	<i>Act or order under which extended</i>	<i>Notification under which enforced</i>	<i>Date from which enforced</i>
(1)	(2)	(3)	(4)
1. Rampur District	Rampur (Application of Laws) Act 1950.		30 December 1949
2. Banaras District	Banaras (Application of Laws) Order 1942	No 3262/17 Dated 30 November 1949	30 November 1949
3. Tehri-Garhwal District,	Ditto (Application of Laws) Order 1940	Ditto	

10 Unrepealed Central Act, Vol 1, p 214.

11 Ibid.

12 The words 'North-Western Provinces' shall stand unmodified by the AO 1950.

13 Inserted by Uttar Pradesh Act 54 of 1975.

14 Substituted for 'United Provinces' by the AO 1950.

- (31) 'offence' shall mean an act or omission made punishable by any law for the time being in force;
- (32) 'Part' shall mean a part of the Act or Regulation in which the word 'occurs';
- (33) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- ²⁷[(33A) 'prescribed' shall mean prescribed by rules made under the Act in which the word occurs;
- (33B) 'public' shall include any class or section of the public];
- (34) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;²⁸
- (35) 'registered' used with reference to a document, shall mean registered in ²⁹[a Pt A state or a Pt C state) under the law for the time being in force for the registration of documents;
- (36) ³⁰'regulation' shall mean a regulation made under the Government of India Act 1870);
- (37) '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;
- (38) 'schedule' shall mean a Schedule to the Act or Regulation in which the word occurs;
- ³¹[(39) 'scheduled bank' shall mean a bank included in the Second Sch to the Reserve Bank of India Act 1934;
- (39A) 'scheduled castes' and 'Scheduled Tribes' shall have the same meanings respectively as in the Constitution];
- (40) 'section' shall mean a section of the Act or Regulation in which the word occurs;
- (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;
- ³²[(42) 'son' in the case of any one the law applicable to whom permits adoption, shall include an adopted son;
- (42A) 'The state' shall mean the State of Uttar Pradesh, and as respects any period before the commencement of the Constitution, shall include the United Provinces;
- (42B) 'statutory instrument' shall mean any notification, order, scheme, rule, or bye-laws issued under any enactment and having the force of law;
- (42C) 'the state government' shall mean the Government of Uttar Pradesh, and as respects functions entrusted under art 258A of the Constitution to the Central Government shall include the Central Government acting within the scope of the authority given to it under that Article;

27 Ibid.

28 Uttar Pradesh Act 54 of 1975.

29 Unrepealed Central Act, Vol I, p 214.

30 Substituted by the AO 1950 for 'the provinces' which had been substituted by the AO 1948 for 'British India'.

31 Repealed by s 138 of the Government of India Act 1915.

32 Substituted by Uttar Pradesh Act 54 of 1975.

- (20) 'growing crops' shall include crops of all sorts²⁰ attached to the soil and leaves, flowers and fruits upon, and juice in, trees and shrubs;
- ²⁰(21) the High Court' or 'the High Court of Judicature at Allahabad' shall mean the High Court for Uttar Pradesh];
- (22) ²¹[***];
- (23) '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, but shall not include standing timber, growing crops or grass;
- (24) 'imprisonment' shall mean imprisonment of either description as defined in the Indian Penal Code;²²
- ²³[(24A) 'legal representative' shall have the same meaning as in the Code of Civil Procedure 1908];
- ²⁴[(25) 'local authority' shall mean a Municipal Board or Nagar Mahapalika, Notified Area Committee, Town Area Committee, Zila Parishad, Cantonment Board, Kshettra Samiti, Gram Sabha or any other authority constituted for the purpose of Local Self-government or village administration or legally entitled to or entrusted by the state government with the control or management of municipal or local fund;
- (26) 'local fund' shall mean revenues administered by a body which by law or rule having the force of law is controlled by the state government, whether in regard to the proceedings generally or specific matters such as the sanctioning of its budget, sanction to the creation or filling up of particular posts, the making of leave, pension or other rules, regulations or bye-laws and shall include revenues (or) of any other body which may be specifically notified by the state government as such];
- (27) '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;
- (28) 'month' shall mean a month reckoned according to the British calendar;
- ²⁵[(28A) 'mother' in the case of any person the law to whom applicable permits adoption, shall include an adoptive mother];
- (29) 'movable property' shall mean property of every description except immovable property;
- ²⁶[(29A) 'notification' or 'publication' shall mean a notification published in *Gazette* of the state and the word 'notified' shall be construed accordingly];
- (30) 'oath' shall include affirmation and declaration in the case of person by law allowed to affirm or declare instead of swearing;

20 Inserted by Uttar Pradesh Act 54 of 1975.

21 Ibid.

22 The definitions of 'His Majesty' or 'the King' omitted by AO 1950.

23 *Unrepealed Central Acts*, Vol 1, p 214.

24 Uttar Pradesh Act 54 of 1975, s 5 (21 October 1975).

25 Substituted by Uttar Pradesh Act 54 of 1975.

26 Ibid.

- (31) 'offence' shall mean an act or omission made punishable by any law for the time being in force;
- (32) 'Part' shall mean a part of the Act or Regulation in which the word 'occurs';
- (33) 'person' shall include any company or association or body of individuals, whether incorporated or not;
- ²⁷[(33A) 'prescribed' shall mean prescribed by rules made under the Act in which the word occurs;
- (33B) 'public' shall include any class or section of the public];
- (34) 'public nuisance' shall mean a public nuisance as defined in the Indian Penal Code;²⁸
- (35) 'registered' used with reference to a document, shall mean registered in ²⁹[a Pt A state or a Pt C state) under the law for the time being in force for the registration of documents;
- (36) ³⁰['regulation' shall mean a regulation made under the Government of India Act 1870);
- (37) '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;
- (38) 'schedule' shall mean a Schedule to the Act or Regulation in which the word occurs;
- ³¹[(39) 'scheduled bank' shall mean a bank included in the Second Sch to the Reserve Bank of India Act 1934;
- (39A) 'scheduled castes' and 'Scheduled Tribes' shall have the same meanings respectively as in the Constitution];
- (40) 'section' shall mean a section of the Act or Regulation in which the word occurs;
- (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;
- ³²[(42) 'son' in the case of any one the law applicable to whom permits adoption, shall include an adopted son;
- (42A) 'The state' shall mean the State of Uttar Pradesh, and as respects any period before the commencement of the Constitution, shall include the United Provinces;
- (42B) 'statutory instrument' shall mean any notification, order, scheme, rule, or bye-laws issued under any enactment and having the force of law;
- (42C) 'the state government' shall mean the Government of Uttar Pradesh, and as respects functions entrusted under art 258A of the Constitution to the Central Government shall include the Central Government acting within the scope of the authority given to it under that Article;

27 Ibid.

28 Uttar Pradesh Act 54 of 1975.

29 Unrepealed Central Act, Vol 1, p 214.

30 Substituted by the AO 1950 for 'the provinces' which had been substituted by the AO 1948 for 'British India'.

31 Repealed by s 138 of the Government of India Act 1915.

32 Substituted by Uttar Pradesh Act 54 of 1975.

- (43) 'sub-section' shall mean a sub-section of the section in which the word occurs;
- (44) '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;
- ³³[(44A) 'temporary Act' shall mean an Act which is to cease to have effect or cease to operate on the expiration of a particular period or on the happening of a particular event or on a particular day];
- ³⁴[(45) 'Uttar Pradesh' shall mean all territories for the time being comprised in the territory of 'Uttar Pradesh' under the Constitution];
- ³⁵[(46) 'Uttar Pradesh Act shall mean—
- (a) as respects any law made before the commencement of the Constitution, an Act made by the Lt-Governor of North-western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act 1861, or the Indian Councils Acts 1861 and 1892, or the Indian Councils Act 1861 to 1909, or the Government of India Act 1915, or by the local Legislature or the Governor of the United Provinces under the Government of India Act, or by the Provincial Legislature of the United Provinces under the Government of India Act 1935; and
- (b) as respects any law made after the commencement of the Constitution, an Act passed by the State Legislature, and shall include any law made in exercise of the powers of the State Legislature by the President or other authority referred to in sub-cl (a) of cl (1) of art 357 of the Constitution];
- (47) 'vessel' shall include any ship or boat or any other description of vessel used in navigation;
- (48) 'will' shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (49) 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
- (50) 'year' shall mean a year reckoned according to the British calendar.
- ³⁶[(51) any reference to a Central Act shall be construed as a reference to that Act as amended from time to time in its application to Uttar Pradesh and in the case of the Code of Civil Procedure 1908, as a reference to that Code subject also to any annulments, alterations and additions to the rules contained in the First Schedule thereto made from time to time under s 122 thereof by the High Court;
- (52) any reference to a revenue division, district or sub-division, or to a local area under the jurisdiction of a local authority, shall be construed as a reference to such revenue division, district or subdivision or to such local area with its limits as altered from time to time;

33 Ibid.

34 Inserted by Uttar Pradesh Act 54 of 1975.

35 Ibid.

36 Ibid.

- (53) any reference to the District Judge, Civil Judge or Munsif shall be construed as including a reference to an Additional District Judge, an Additional Civil Judge or as the case may be, an Additional Munsif to whom a case is assigned by the District Judge (to whom such officer is administratively subordinate) for disposal].

Comments

The words 'commencement of the Act' in ss 14 and 15 of Uttar Pradesh (Temporary) Control of Rent and Eviction Act 1947 meant the date on which the Act became applicable to the particular area of the State of Uttar Pradesh and not the date when Act was made applicable for first time to some areas of the state.³⁷

38[4-A. Grammatical Variations and Cognate Expressions—In every Uttar Pradesh Act, when a word is defined—

- (a) the definition shall apply unless the context of the Act otherwise requires;
- (b) grammatical variations of that word and cognate expression shall have corresponding meanings].

GENERAL RULES OF CONSTRUCTIONS

5. Coming into Operation of Enactments—(1) Where any United Provinces Act is not expressed to come into operation on a particular day, then—

- ³⁹(a) in the case of an Uttar Pradesh 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*;
- (b) in the case of an Uttar Pradesh 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*.⁴⁰
- (2) Unless the contrary is expressed, an ⁴¹(Uttar Pradesh) Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Comments

Local Acts are governed by s 5 of Uttar Pradesh General Clauses Act and therefore Amendment Act passed in 1930 came into force on the date it was published in the *Gazette* and not when it received assent of the Governor-General.⁴²

37 Substituted by Uttar Pradesh Act 54 of 1975.

38 *Hazarilal v Kanhaiya Lal* AIR 1953 All 686, 688-89.

39 Inserted by Uttar Pradesh Act 54 of 1975.

40 Substituted by the AO 1950.

41 *Ibid.*

42 Substituted for 'United Provinces' by the AO 1950.

6. Effect of Repeal—Where any ⁴³[Uttar Pradesh] 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 remedy, or any investigation, or legal proceeding commenced before the repealing Act shall have come into operation in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

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

Comments

Any unpaid fee due for a period an Ordinance was in force would remain outstanding as an enforceable responsibility even after expiry of the Ordinance.⁴⁴ But where the enactment is unconstitutional and has been declared unconstitutional, it shall have to be presumed as if the Act has never been passed and never in force. The provisions of Uttar Pradesh General Clauses Act will not apply to an enactment which in the eye of law never existed.⁴⁵ This s 6 would apply only to those cases where a different intention does not appear in the new enactment.⁴⁶ Also it is only the vested rights which are protected under this section and not inchoate or contingent rights.⁴⁷

48[6-A. Time of Expiration of Temporary Acts]—A temporary Uttar Pradesh Act, shall be construed as ceasing to operate immediately at the end of the day on which it expires.

6-B. Effect of Expiration—Where a temporary Uttar Pradesh Act expires, the provisions of ss 6 and 24 shall apply to it as they apply to the repeal of an enactment by an Uttar Pradesh Act.

6-C. Repeal or Expiration of Law Making Textual Amendments in Other Laws—

(1) Except as provided by sub-s (2) where any Uttar Pradesh Act amends the text of any Uttar Pradesh Act or Regulation by the express omission, insertion or substitution of any matter, and the amending enactment is subsequently repealed, the repeal shall not affect the continuance of any such amendment made by the

43 *Haider Hussain v Puran Mal* AIR 1935 All 706, 709 (FB).

44 Substituted for 'United Provinces' by the AO 1950.

45 *Sudhir Trading Co v State* 1986 All LJ 871-72.

46 *Jai Ram Singh v State of Uttar Pradesh* AIR 1962 All 350, 352.

47 *Bibi Amina Khatoon v Beni Ram* AIR 1939 All 209.

48 *Piare Lal v Soney Lal* AIR 1936 All 222, 238.

enactment so repealed and in operation at the time of such repeal.

(2) Where any such amendment of text is made by any temporary Uttar Pradesh Act or by an Ordinance or by any law made in exercise of the power of the State Legislature by the President or other authority referred to in sub-cl (a) of cl (1) of art 357 of the Constitution, and such Act, Ordinance or other law ceases to operate without being re-enacted (with or without modifications) the amendment of text made thereby shall also cease to operate.]

7. Revival of Repealed Enactments—In any ⁴⁹[Uttar Pradesh] 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 References to Repealed Enactments—⁵⁰[(1)] Where any ⁵¹[Uttar Pradesh] Act repeals and re-enacts with or without modification, 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.

⁵²[(2). Where the short title of any enactment is amended by an Uttar Pradesh Act, then references to that enactment by its old short title in any other enactment, shall be construed as references to that enactment by its new short title.]

9. Commencement and Termination of Time—In any ⁵³[Uttar Pradesh] 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 ⁵⁴[Uttar Pradesh] 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 1877,⁵⁵ applies.

⁵⁶[**10-A. Marginal Notes Not Part of Act**—Marginal notes to any provisions of an Uttar Pradesh Act and the reference to the number and year of any former enactment against any such provisions shall be deemed to have been inserted for convenience of reference only and shall not form part of the Act.

10-B. Effect of Incorporation—Where any Uttar Pradesh Act constitutes a body corporate by any form of words, that body corporate shall have perpetual succession

49 Inserted by Uttar Pradesh Act 54 of 1975, s 7.

50 Substituted for 'United Provinces' by the AO 1950.

51 Re-numbered as sub-s (1), by Act Uttar Pradesh 54 of 1975.

52 Substituted for 'United Provinces' by the AO 1950.

53 Inserted by Uttar Pradesh Act 54 of 1975.

54 Substituted for 'United Provinces' by the AO 1950.

55 Ibid.

56 Now the Limitation Act 1963.

and a common seal and may either enter into contract by its corporate name, acquire, hold and dispose of property, whether movable or immovable, and sue or be sued by its corporate name.

10-C. Deviations from Forms—Where, by any Uttar Pradesh Act, a form is prescribed, slight deviations therefrom not affecting the substance or calculated to mislead, shall not invalidate it.]

11. Measurement of Distances—In the measurement of any distance for the purposes of any ⁵⁷[Uttar Pradesh] 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 Enactments—Where, by any ⁵⁸[Uttar Pradesh] 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 less quantity.

13. Gender and Number—In all ⁵⁹[Uttar Pradesh] 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.

POWERS AND FUNCTIONARIES

14. Powers Conferred on the Government to be Exercisable from Time to Time—Where by any ⁶⁰[Uttar Pradesh] Act any power is conferred ⁶¹[* * *] then that power may be exercised from time to time as occasion requires.

15. Power to Appoint to Include Power to Appoint '*ex officio*'—Where, by any ⁶²[Uttar Pradesh] 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.

⁶³[16. Power to Appoint to Include Power to Suspend, Dismiss or Otherwise Terminate the Tenure of Office—Where, by any Uttar Pradesh Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend, dismiss, remove or otherwise terminate the tenure of office of any person appointed, whether by itself or any other authority, in exercise of that power.]

57 Inserted by Uttar Pradesh Act 54 of 1975, s 9.

58 Substituted for 'United Provinces' by the AO 1950.

59 Ibid.

60 Substituted for 'United Provinces' by the AO 1950.

61 Ibid.

62 Omitted by Uttar Pradesh Act 54 of 1975.

63 Substituted for 'United Provinces' by the AO 1950.

Comments

Where power to make appointment is not conferred on an authority, mere power to terminate the services can not be delegated. Such termination orders are not protected under s 16.⁶⁴

17. Substitution of Functionaries—In any ⁶⁵[Uttar Pradesh] 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.

18. Successors—In any ⁶⁶[Uttar Pradesh] 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.

19. Official Chiefs and Subordinates—In any ⁶⁷[Uttar Pradesh] Act, it shall be sufficient for the purpose of expressing that a law relative of 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.

⁶⁸[19-A. Ancillary Powers—Where by any Uttar Pradesh Act, a power is given to a person, officer or functionary to do or enforce the doing of any act or thing, all such powers shall be deemed to be given as are necessary to enable that person, officer or functionary to do or enforce the doing of the act or thing.]

PROVISIONS AS TO ⁶⁹[STATUTORY INSTRUMENTS] MADE UNDER ENACTMENTS

20. Construction of Statutory Instruments Issued under Enactments—⁷⁰[(1)] Where, by any ⁷¹[Uttar Pradesh] Act, a power to issue any statutory instruments is conferred, then expressions used in the ⁷²[statutory instruments] shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

⁷³[(2) The provisions of ss 4, 4A, 6, 6A, 6B, 7, 8, 9, 10, 10A, 10C, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A and 28 shall *mutatis mutandis* apply in relation to any statutory instruments issued under any Uttar Pradesh Act as they apply in relation to any Uttar Pradesh Act].

21. Power to Make to Include Power to, Add to Amend, Vary or Rescind

64 Substituted by Uttar Pradesh Act 54 of 1975 s 11.

65 *Surendra Singh v District Cane Officer* 1992 All LJ 714, 716.

66 Substituted for 'United Provinces' by the AO 1950.

67 Ibid.

68 Ibid.

69 Inserted by Uttar Pradesh Act 54 of 1975.

70 Substituted by ss 13-14 of Uttar Pradesh Act 54 of 1975.

71 Re-numbered by Uttar Pradesh Act 54 of 1975.

72 Substituted for 'United Provinces' by the AO 1950.

73 Substituted by ss 13-14 of Uttar Pradesh Act 54 of 1975.

74 Inserted by UP Act 54 of 1975.

Statutory Instruments—Where by any ⁷⁴[Uttar Pradesh] Act, a power to issue statutory instruments 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 ⁷⁵[statutory instrument] so issued.

⁷⁶[22. Making of Rules or Bye-laws and Issuing of Orders Between Publication and Commencement of Enactment]—Where, by any Uttar Pradesh Act, which is not to come into force on the day on which it is first published in the *Official Gazette*, a power is conferred ⁷⁷[to issue statutory instruments] with respect to the application of the Act or in the exercise of any power exercisable thereunder or under any enactment thereby amended, 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, taxes, cess or other dues for which anything is to be done under the Act, then that power may be exercised at any time after the Act has been published as aforesaid but ⁷⁸[statutory instruments so issued] so made or issued shall not take effect till the commencement of the Act.]

23. Provisions Applicable to making of Rules or Bye-laws after Previous Publication—⁷⁹[(1)] Where, by any ⁸⁰[Uttar Pradesh] 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:

- ⁸¹[(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 informations of persons likely to be affected thereby;
- ⁸²[(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 so requires in such manner as ⁸³[the government concerned] prescribes;
- ⁸⁴[(c)] there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- ⁸⁵[(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

75 Ibid.

76 Ibid.

77 Substituted by Act 5 of 1957.

78 Substituted by Uttar Pradesh Act 54 of 1975, s 16.

79 Substituted by Uttar Pradesh Act 54 of 1975.

80 Re-numbered by Uttar Pradesh Act 54 of 1975.

81 Substituted for 'United Provinces' by the AO 1950.

82 Re-numbered by Uttar Pradesh Act 54 of 1975.

83 Ibid.

84 Substituted for 'Central Government or as the case may be, the Provincial Government' by the AO 1951, which has been subs. for 'LG' by AO 1937.

85 Re-numbered by UP Act 54 of 1975.

having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

⁸⁶[e] the publication in the ⁸⁷[*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.

⁸⁸(2) The date referred to in cl (c) of sub-s (1) shall not be a date earlier than the day of expiration of a period of one month from the date of publication of the draft of the proposed rules or bye-laws under cl (a) of that sub-section.

(3) Notwithstanding the provisions of sub-ss (1) and (2), where the state government is satisfied that circumstances exist which render it necessary for it to make rules or bye-laws with immediate effect or with effect from a date earlier than a period of one month, it may make any such rules or bye-laws without previous publication or as the case may be, fix a date referred to in cl (c) of sub-s (1) earlier than the date of expiration of a period of one month from the publication of the draft of the proposed rules or bye-laws.]

⁸⁹**[23-A. Date of Coming into Effect of Rules and the Control of Legislature Over Them—**(1) All rules made by the state government under an Uttar Pradesh Act shall, as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session, for a total period of not less than thirty days, which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the *Gazette* subject to such modification or annulments as the two Houses of the Legislature may, during the said period, agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(2) Where any Central Act, in force in or applicable to Uttar Pradesh and relating to matters with respect to which the State Legislature has power to make laws for Uttar Pradesh confers power on the state government to make rules thereunder, then subject to any express provisions to the contrary in such Act, the provisions of sub-s (1) shall *mutatis mutandis* apply to the rules made by the state government in exercise of that power.]

24. Continuation of Appointments, Notifications, Orders, etc, Issued Under Enactments Repealed and Re-enacted—Where any enactment is repealed and re-enacted by an ⁹⁰[Uttar Pradesh] Act with or without modification, then, unless it is otherwise expressly provided, any appointment, ⁹¹[or statutory instrument 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

86 Ibid.

87 Substituted for 'Gazette' by the AO 1937.

88 Re-numbered by Uttar Pradesh Act 54 of 1975.

89 Inserted by Uttar Pradesh Act 54 of 1975, s 18.

90 Substituted for 'United Provinces' by the AO 1950.

91 Inserted by Uttar Pradesh Act 54 of 1975.

92 Ibid.

superseded by any appointment, ⁹²[or statutory instrument or form] made or issued under the provisions so re-enacted.

MISCELLANEOUS

25. 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 ⁹³[Uttar Pradesh] Act, or any rule or bye-law made under any ⁹⁴[Uttar Pradesh] Act, unless the Act, rule or bye-law contains an express provision to the contrary.

26. Provision as to Offences Punishable Under Two or More Enactments—Where an act or omission constitutes an offence under two or more ⁹⁵[Uttar Pradesh] Acts, 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.

27. Meaning of Service by Post—Where any ⁹⁶[Uttar Pradesh] 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.

Comments

Presumption of service arises even if notice is not posted to permanent address provided address mentioned is otherwise correct and such presumption does not stand rebutted by mere denial of service.⁹⁷

28. Citation of Enactments—(1) In any ⁹⁸[Uttar Pradesh] 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 citing any ⁹⁹[Uttar Pradesh] Act, made previously to the 22 May 1902, the words '[United Provinces]' may be substituted for the words 'North-western Provinces and Oudh' and the word 'Agra' for the words 'North-Western Provinces' in the title or short title (if any) conferred thereon.

93 Substituted for 'United Provinces' by the AO 1950.

94 Ibid.

95 Ibid.

96 Ibid.

97 *Mushiyatullah v Abdul Wahab* AIR 1972 All 539–40.

98 Substituted for 'United Provinces' by the AO 1950.

99 Ibid.

1 Ibid.

2 Ibid.

(3) In any ²[Uttar Pradesh] 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.

29. References in Existing Enactments to North-western Provinces and Oudh—
In all ³[Central Acts or Regulations made by the Central Government] and all ⁴[Uttar Pradesh] Acts, heretofore passed and now in force, and in every appointment, ⁵[or statutory instrument] made or issued thereunder, all references to the ⁶[North-western Provinces and Oudh] shall be construed as referring to ⁷[Uttar Pradesh] ⁸[* * *] all references to the ⁹[North Western Provinces] and to the ¹⁰[Province of Oudh] respectively, shall be construed as referring to the corresponding territories as comprised in ¹¹[Uttar Pradesh] ¹²[**] ¹³[and all references to the Lieutenant Governor] of the ¹⁴[North-Western Provinces] or the Chief Commissioner of Oudh or the Lieutenant-Governor of the ¹⁵[North-western Provinces] and Oudh in Council shall be construed as referring to ¹⁶[state government] of ¹⁷[Uttar Pradesh].

¹⁸[30. Application to Ordinances and Regulations Under the Government of India Act 1935—The provisions of this Act shall apply—

- (a) in relation to any Ordinance promulgated by the Governor, under s 88 of the Government of India Act 1935, as they apply in relation to Uttar Pradesh Acts, made under the said Act by the Governor and in relation to any regulation made by the Governor under s 92 of the

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- 3 Substituted for 'Acts or Regulations of the Governor-General' by the AO 1950.
 4 Substituted for 'United Provinces' by the AO 1950.
 5 Substituted by the AO 1950 for 'United Provinces'.
 6 The expressions 'North-Western Provinces' and 'Province of Oudh' shall stand unmodified by the AO 1950.
 7 Substituted for 'United Provinces' by the AO 1950.
 8 The words 'of Agra and Oudh' omitted by the AO 1937.
 9 The expressions 'North-Western Provinces' and 'Province of Oudh' shall stand unmodified by the AO 1950.
 10 Ibid.
 11 Substituted for United Provinces by the AO 1950.
 12 Ibid.
 13 Substituted for the words 'all references to the Lieutenant-Governor of the North-western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lt-Governor of the Uttar Pradesh of Agra and Oudh and all references to the Lt-Governor of the North-western Provinces and Oudh in Council shall be construed as referring to the Lt-Governor of Uttar Pradesh, of Agra and Oudh in Council by the AO 1937.
 14 Substituted by the AO 1950 for 'Provincial Government'.
 15 Ibid.
 16 Ibid.
 17 Substituted for 'United Provinces' by the AO 1950.
 18 Substituted by the AO 1950.

- said Act as they apply in relation to Uttar Pradesh Acts 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 Fifth Sch to the Constitution, as they apply in relation to Uttar Pradesh Acts made by the state legislature:

Provided that cl (b) of sub-s (1) of s 5 of this Act shall apply to an 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*.)

¹⁹[***]

¹⁹ Schedule be omitted by Uttar Pradesh Act No 54 of 1975.

APPENDIX XXV

Report of The Select Committee on The Bill¹

GOVERNMENT OF INDIA, LEGISLATIVE DEPARTMENT

The following Report of the Select Committee on the Bill to consolidate and extend the General Clauses Acts 1868 and 1887, was presented to the Council of the Governor-General of India, for the purpose of making Laws and Regulations on the 4 March 1897:

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and extend the General Clauses Acts 1868 and 1887, was referred, have considered the measure and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

3. The amendments, which we have deemed it necessary to suggest, are not numerous, and are all briefly explained by the following remarks:

Clause 3(16)—We have inserted the word 'written' before the word 'expressed' in the definition of a 'document' in order to draw the provisions of cl 3(16) [cl 3(58) of the amended Bill] and so to indicate that a photograph, for example, may fall within the meaning of the term. It will be observed that in s 3 of the Indian Evidence Act 1872, from which the definition has been taken, the addition of an illustration appears to have been thought desirable to make the intention clear.

Clause 3(20) of the Bill as introduced—We have decided to recommend the omission of any definition of the expression 'Gazette'. It will, we believe, always be found useful to indicate as precisely as possible the manner in which any publication required by an Act of the Legislature is to be made.

Clause 3(25) of the Bill as introduced—We have, in cl 3(24) of the amended Bill, avoided all attempts at defining the expression 'High Court' when used with reference to criminal proceedings, and confined the definition, as in s 2(11) of the General Clauses Act (1 of 1868) to the expression in its relation to civil proceedings. The jurisdictional arrangements, especially in connection with the court of the Recorder of Rangoon and the Criminal Courts in Burma generally, are in some respects extremely complicated, and we have, therefore, come to the conclusion that it is wiser to adopt this course.

Clause 3(37) of the Bill as introduced—The declaratory definition of the word 'notice' we think it safer on the whole to omit, leaving it to be expressly

¹ *Gazette of India*, Pt 5, pp 77-78, dtd 6 March 1897.

provided on each occasion if considered necessary, that a notice must be given in writing.

Clause 3(42) of the Bill as introduced—The change which we have made in the definition of 'Political Agent' [cl 3(40) of the revised Bill] is purely formal.

Clause 3(55) of the Bill as introduced—In the definition of 'son' [cl 3(53) of the amended Bill] we have merely transposed the words so as to make the form correspond exactly with that of the definition of 'father'.

Clause 3(58) of the Bill as introduced—The expression 'value' is used in varying senses and for various purposes and we consider that neither the definition in s 3(13) of the General Clauses Act (1 of 1887) nor yet that in the Bill is likely to serve any good purpose. We would not attempt any definition of the word, and have, therefore, omitted cl 3(58) of the Bill as introduced in Council.

Clause 4—The omission of the parenthesis (used with reference to civil proceedings) and the word 'value' need no further explanation.

Clause 6—We propose to adhere more closely to the wording of the Interpretation Act 1889, s 38, by substituting the phrase 'unless a different intention appears' for the phrase 'unless the contrary is expressed' in the Bill as introduced. It is most desirable to have our law in this particular connection as much as possible in line with that approved in England and we have, therefore, left the clause practically reproducing the whole of the English section: but we desire, at the same time, to take the opportunity to point out, with reference to the last sub-clause, that in this country it will probably be necessary in some cases expressly to lay down a rule differing from that recognised by the English Statute. Thus, in the present Code of Civil Procedure it is provided that certain proceedings taken in pursuance of a right accrued under the former Code shall be taken in accordance with the new provisions and not with those repealed, and it will very likely be deemed expedient to reproduce that in revising and re-enacting Act 14 of 1882.

The second paragraph of this clause we have, on further consideration, thought it right to delete. It may be that without any such provision, it would be held that the effect is the same when an enactment expires as when it is repealed; but on the other hand it is conceivable that there might be cases in which, for example, it would be better not to allow a person to be proceeded against after the expiry of a temporary, and possibly very stringent, enactment, although he acted in contravention of it during the period for which it was expressed to endure.

Clause 13—The addition which we have here prefixed will explain itself. It will be observed that we have deemed it unnecessary to place in limitation upon the application of the familiar rules laid down by the clause.

Clause 15—We think that it will prove convenient and is unobjectionable to make this clause apply to appointments hereafter made, even if they be made under the provisions of enactments passed before the commencement of the proposed Act. We have, therefore, here slightly altered the language and arrangements.

Clause 20—The presence of the word 'warrant' in the Indian Statute Book might cause confusion in this connection. We have, therefore, struck it out, and at the same time inserted a reference to 'forms'.

Clause 24—An amendment similar to that explained above in the case of cl 20 has been made here also. We have further suggested an addition towards the end of the clause to make the provision more comprehensive.

Clause 26—We have left this standing, but we think that its proper place is in the Indian Penal Code, and we trust that, when that is consolidated, the provision here will be repealed and reproduced in the new Code.

Clause 27—It seems to us that this had better be limited so as to apply only to Acts passed after the commencement of the proposed Act, and we have amended the clause accordingly.

In English

Gazette		Date
Gazette of India	...	6 February 1897
Fort Saint George Gazette	...	16 February 1897
Bombay Government Gazette	...	11 February 1897
Calcutta Gazette	...	10 February 1897
North-Western Provinces and Oudh Govt Gazette	...	13 February 1897
Punjab Government Gazette	...	18 February 1897
Central Provinces Gazette	...	13 February 1897
Burma Gazette	...	20 February 1897
Assam Gazette	...	20 February 1897
Coorg District Gazette	...	(Not reported)
Sindh <i>Official Gazette</i>	...	(Ditto)

In the Vernaculars

Province	Language	Date
Madras	Tamil	23 February 1897
	Telugu	23 February 1897
	Hindustani	23 February 1897
	Kanarese	23 February 1897
	Malayalam	23 February 1897
Bombay	Marathi	(not reported)
	Gujarati	(Ditto)
	Kanarese	(Ditto)
Bengal	Bengali	(Ditto)
	Hindi	(not reported)
	Uriya	(Ditto)
North-Western Provinces and Oudh	Urdu	(Ditto)
Punjab	Urdu	(Ditto)
	Marathi	(Ditto)
	Hindi	(Ditto)
Central Provinces		
	Kanarese	(Ditto)

Province	Language	Date
Burma	Burmese	(Ditto)
Assam	Bengali	(Ditto)
Coorg	Kanarese	(Ditto)
	Marathi	(Ditto)
Sindh	Sindhi	(Ditto)

4. We consider that the measure has not been so altered as to require re-publication, and recommend that it be passed as now amended.

MD Chalmers.
 J Westland.
 Hem James.
 P Anandacharlu.
 GHP Evans.
 RM Savani.
 HT Prinsep.

The 2 March 1897.

I should like to record that I dissent from cl 3(20) of the Bill annexed.

HEM James.

APPENDIX XXVI

Statement Of Objects And Reasons¹

1. This Bill does not propose to effect any change in the law. Its object, like that of the Acts it consolidates, is to shorten the language of statutory enactments and to provide for uniformity of expression in cases where there is identity of subject-matter.

2. The first enactment of the kind was Lord Brougham's Act.² The provisions of that statute were adapted to India, and somewhat amplified by the General Clauses Act (1 of 1868) and the General Clauses Act (1 of 1887) was a further extension of the same principle. It is obviously expedient that the legislative dictionary, as it may be called, should be contained in a single enactment, and that the two Acts above referred to should be consolidated, and it seems desirable to take the opportunity of making any additions that later experience may have suggested, and in particular to incorporate such provisions of the Interpretation Act 1889,³ as are applicable to India. The Statute, like the Indian Act of 1887, was drafted by Sir C. Ilbert, and is in effect a careful revision and extension of the latter. For example, the definition of a 'British India' in the English Act of 1889 is merely an expansion of the definition given by the Indian Act of 1868. Its legal effect is the same, but it is more intelligible, and it avoids a reference to another statute. The proposed measure will have this further advantage that it will end to secure uniformity of language and construction in Indian and English legislation, in so far as both have to deal with the same subject-matter.

3. The references on the margin of the Bill indicate the origin of each provision contained therein, and the annexed Notes on Clauses furnish further explanatory details as seem to be called for.

The 2 February 1897

Md Chalmers

1 The *Gazette of India*, Pt 5, p 38, dtd 6 February 1897.
2 13-14 Vict, c 21.
3 52-53 Vict, c 63.

APPENDIX XXVII

সর্বস্তরের আইন বহিষ্কারের জন্য

সামগ্রিক পাবলিকেশন্স

Notes On Clauses¹

Clause 3—This clause brings together and defines 62 words and phrases of more or less frequent occurrence in the Indian Statute Book. The arrangement is in alphabetical order, and, in accordance with that order, as also with a view to obviating the risk of oversight, the definitions of 'father' and 'son' and of the cognate expressions 'affidavit', 'oath' and 'swear' have been separated and inserted each in its proper place.

Clause 3(7)—The definition of 'British India' is mentioned in the Statement of Objects and Reasons above, taken from the Interpretation Act 1889.²

Clause 3(17)—The definition of 'enactment' suggested by this clause is intended to remove certain doubts which have, from time to time, been raised as to the meaning of the word.

Clause 3(20)—The expression 'Gazette' is defined here in accordance with the prevailing usage. The definition will be useful as tending to shorten and simplify the language of the provisions of very many enactments.

Clause 3(21)—It will be observed that this definition differs materially from that contained in the Indian Penal Code, but it is believed that it is a better, being a more equitable and reasonable, definition of the expression 'good faith'. It is now well-established in England: for, as Lord Denman CJ, remarked, as far back as in 1836 in *Goodman against Harvey*³ 'gross negligence may be evidence of mala fides, but is not the same thing. We have shaken off the last remnant of the contrary doctrine'. See also *Jones v Gordone*,⁴ where it is intended to afford protection only in the case of a person who acts in good faith and without negligence, it seems better to say so in terms.

Clause 3(22)—Experience has suggested the desirability of providing a definition of the expression 'government'. The present practice is to refer specifically to the 'Governor-General-in-Council' when the Government of India only is meant and to the 'Local government' when a subordinate administration alone is in view; but it is frequently useful to refer in general terms to 'the government', as for example, in legislation affecting public property and the question has more than once arisen whether such phraseology includes the Local government concerned as well as the Supreme Government. It is

1 The *Gazette of India*, Pt 5, pp 38-40, dated 6 February 1897.

2 52-53 Viet, c 63 s 18(4).

3 4A E, 876.

4 LR 2 App Cas 629, and *Derry v Peck* LR 14 App Cas 337.

proposed, by introducing here the definition which is already to be found in the Code of Civil Procedure, to make it clear for the future that unless a different intention appears from the context, it does.

Clause 3(25)—The definition of expression 'High Court' in the General Clauses Act (1 of 1868), s 2(ii), has reference only to civil proceedings. A definition in its relation to criminal proceedings, which has been taken from the Code of Criminal Procedure 1882, s 4(i), has been added.

Clause 3(28)—The definition of 'India' is taken verbatim from the Interpretation Act 1889, s 18(5).

Clause 3(47)—The phrase 'used with reference to a document', and also the words 'in British India' have been inserted in the existing definition of 'registered' contained in s 3(ii) of the General Clauses Act (1 of 1887), and the new definition is, by cl 4(2) of the Bill, declared to govern all enactments passed since the 14 January 1887. The additions, however, really do no more than indicate with greater precision the proper construction to be placed upon the definition of 1887, and it cannot be said that any change in the law will be affected thereby.

Clause 3(57)—The words 'with its grammatical variations and cognate expressions' have been interpolated in the definition of the word 'swear' to be found in s 2(17) of the General Clauses Act (1 of 1868), but the law has no doubt always been so interpreted.

Clause 3(58)—In this case also the definition contained in s 3(13) of the existing Act (1 of 1887) has been slightly amplified but not, it is thought, so as to affect the substance.

Clause 3(60)—Re-enacting the definition of 'will' in s 2(16) of the General Clauses Act (1 of 1868) it has been thought expedient to substitute the word 'disposition' for the word 'distribution'. The former would seem to express the intention more accurately than the latter.

Clause 3(61)—The definition of 'writing' given by the Interpretation Act 1889,⁵ is here proposed in substitution for that contained in s 3(14) of the General Clauses Act (1 of 1887). The English definition seems to be fuller and clear than the Indian, but the latter has, it is believed, consistently been interpreted so as to be practically, identical with the former.

Clause 4—This clause is declaratory of the existing law. The first paragraph provides that all the definitions in the preceding clause which are reproduced from the General Clauses Act (1 of 1864), apply also to all Acts of the Governor-General-in-Council passed after the 3 January 1868 (the date on which the Governor-General's assent was given to that law), and to all Regulations (as defined in cl 3 made after the 14 January 1887 (the date on which the Governor-General's assent was given to the General Clauses Act 1887, s 10 of which should here be referred to), Paragraph 2, on the other hand, declares that the definitions in cl 3 which are at present contained in the General Clauses Act (1 of 1887), apply also to all Acts of the Governor-General-in-Council and Regulations made after the date of the coming into force of the enactment. Any alterations which have been made in the existing definitions have been referred to in the preceding notes, and the fact that the substance is in no case affected

⁵ 52-53 Vict, c 63, s 20.

has, it is believed, been satisfactorily explained. Similar declaratory provisions have, where necessary, been added to the other clauses of the Bill.

Clause 5—The first and second paragraph are declaratory of the practice based upon the provisions of the existing law on the subject while the origin of para 4 is to be found in s 36(2) of the Interpretation Act 1887.⁶

Clauses 6(1) and 8—These are borrowed from the English Act just referred to, and their utility in the direction of abbreviating the phraseology used in enactments scarcely requires demonstration. The second paragraph of cl 6 is an addition which has been suggested to meet the case of temporary Ordinances made and promulgated under s 23 of the Indian Councils Act 1861,⁷ and of enactments, such as the Upper Burma Criminal Justice Regulation (7 of 1886), which are expressly limited to endure only for a specified period. It seems clear that the effect of the expiry of a law should be the same as that of its repeal and no more.

Clause 13—The provisions of this clause take the form of 'definitions' in the General Clauses Act (1 of 1868), but they would seem to be more appropriately enacted as rules of construction.

Clause 15—The practice hitherto observed in drafting in this country appears to have been to state explicitly in each Act that a person may be appointed 'by name or by virtue of his office' if the admissibility of making *ex officio* appointments is contemplated. This may lead to the inference that no person can be appointed by office unless express authority to that effect is conferred by the law under which the appointment is made. It will, from an administrative point of view, be most convenient to generalise the provision in the manner here indicated.

Clause 16—A power to appoint should ordinarily include a power to remove the person appointed. It is, however, not certain that this construction would be adopted universally by the courts, particularly in view of the fact that it has been usual in Indian Acts expressly to take both powers. The opportunity has, therefore, been sought to establish the rule once for all for the future.

Clause 20—It has been held that even in the absence of any such provision as this, the rule here laid down would hold good. Nevertheless it seems advisable to follow the lead of the English Statute and to reproduce, with the necessary modifications, s 31 of the Interpretation Act 1889. This course has already been taken by the Madras Council in the latest legislation of the kind in India, viz, the Madras General Clauses Act (1 of 1891), s 10.

Clause 21—It has been usual in Indian legislation expressly to take power to add, to amend, vary or rescind once made in exercise of a statutory power conferred. This has, no doubt, been *ex abundanti cautela*, inasmuch as it would probably be held that the power exists without any such declaration, especially if provisions of s 5 of the General Clauses Act (1 of 1887) be borne in mind. But the practice above referred to might give countenance to an argument to the contrary, and the opportunity is now taken to set the matter finally at rest, as has been done for Acts of the Madras Council by s 15 of Act 1 of 1891 of the local legislature.

6 52-53 Vict, c 63.

7 24-25 Vict, c 67.

Clause 24—The enactment of this clause will obviate the necessity for including in every repealing and re-enacting Bill such, for instance, as the Bill which became the Pilgrim Ships Act (14 of 1895), a transitory provision to keep any orders, warrants, schemes, rules or bye-laws issued under the law which it is proposed to supersede, in force until replaced by fresh instruments duly promulgated under the new law. It will be observed from the marginal reference that a similar provision has been enacted locally in s 18 of the Madras General Clauses Act 1891.

Clauses 25 and 26—These provisions have been taken from the General Clauses Acts 1868 and 1887. In strictness, the provision reproduced in cl 25 should apply only to Acts passed after the 3 January 1868, and to regulations made on or after the 14 January 1887, while that, contained in cl 26 ought to be confined to enactments passed on or after that lastmentioned date: but there seems to be no danger in recognizing them as of universal applications.

JM Macpherson,
Secretary to the Government of India

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