

The Pepsu General Clauses Act, 1954

HARYANA

India

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Act 9 of 1955

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The Pepsu General Clauses Act, 1954 Act No. 9 of 1955 An Act to provide for the construction of enactments and for shortening the language thereof. It is hereby enacted in the Fifth Year of the Republic of India as follows :- Preliminary

1. Short title and commencement.

(1) This Act may be called the Pepsu General Clauses Act, 1954. (2) It shall come into force at once.

2. Application of Act.

- Unless otherwise expressly provided or the context otherwise requires, the provisions of this Act with respect to the construction of enactments, apply - (a) to this Act and all other enactments whether passed before or after the commencement of this Act; and (b) where any such enactment confers upon any authority power to make rules or bye-laws, also to such rules or bye-laws.

3. General Definitions.

- In this Act, and in all enactments, unless the context otherwise requires, - (1) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (Act XLV 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) "Central Act" and "Central Government" shall have the meanings respectively assigned to them in the General Clauses Act, 1897 (X of 1897); (5) "chapter" shall mean a chapter of the enactment in which the word occurs; (6) "clause" shall mean a sub-division of a section when the sub-division itself is not a sub-section, and shall include a sub-division of a sub-section; (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

enactment shall mean the time at which the enactment comes into force;(9)"Commissioner" shall mean the chief officer in charge of the revenue administration of a division;(10)"Constitution" shall mean the Constitution of India;(11)"Covenant" shall mean the Covenant, entered into on the 5th day of May, 1948, by the Rulers of the former Indian States of Faridkot, Jind, Kalsia, Kapurthala, Malerkotla, Nabha, Nalagarh and Patiala for the formation of the State of Patiala and East Punjab States Union, as amended by the Supplementary Covenant entered into by the Rulers of the aforesaid States on the 9th day of April, 1949;(12)"Deputy Commissioner" shall mean the chief officer in charge of the general administration of a district, and shall include a Nazim;(13)"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 original civil jurisdiction;(14)"document" shall include 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 purpose of recording that matter;(15)"enactment" shall mean a Pepsu Act, and shall include -(a)an Ordinance promulgated under article 213 read with article 238 of the Constitution; and(b)also any provision contained in any Pepsu Act or Ordinance as aforesaid;(16)"father", in the case of any one whose personal law permits adoption, shall include an adoptive father;(17)["Financial Commissioner" shall mean, - [Clause (17) substituted by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.](a)for any period before the 1st November, 1956 the Financial Commissioner for the time being for the territories of the State of Punjab which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab States Union;(b)for any period on and from the 1st November, 1956 to the 31st October, 1966, the Financial Commissioner for the territories of the State of Punjab which immediately before the 1st November, 1966, formed part of that State; and(c)for any period on and after the 1st November, 1966, the Financial Commissioner for the State of Punjab;](18)"financial year" shall mean the year commencing on the 1st day of April;(19)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;(20)"Government" or "the Government" shall include both the Central Government and any State Government;(21)["High Court" shall mean, - [Substituted for clause (21) by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.](a)for any period before the 1st November, 1956, the High Court for the territories of the State of Punjab which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab States Union;(b)for any period on and from the 1st November, 1956, to the 31st October, 1966, the High Court for the territories of the State of Punjab which immediately before the 1st November, 1966, formed part of the State; and(c)for any period on and after 1st November, 1966, the High Court of Punjab and Haryana;](22)"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;(23)"imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code (Act XLV of 1860);(24)"India" shall mean all the territories for the time being comprised in the territory of India;(25)"local authority" shall mean a municipal committee, small town committee, district board or other authority legally entitled to or entrusted by the Government with, the control or management of a municipal, small town or local fund;(26)"magistrate" shall include every person exercising all or any of the powers of a magistrate under the Code of Criminal Procedure, 1898 (Act V of 1898);(27)"month" shall mean a month reckoned according to the British calendar;(28)"movable property" shall mean property of every description except immovable property;(29)"notification" shall mean a notification published in the

Official Gazette;(30)"oath" shall include an affirmation and a declaration in the case of persons by law allowed to affirm or declare instead of swearing;(31)"offence" shall mean any act or omission made punishable by any law for the time being in force;(32)["Official Gazette or Gazette" shall mean, - [Substituted for clause (32) by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.](a)for any period before the 1st November, 1966, the Official Gazette of the territories which, immediately before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union;(b)for any period on and from the 1st November, 1956, to the 31st October, 1966 the Official Gazette of the territories which, immediately before the 1st November, 1966 were comprised in the State of Punjab; and(c)for any period on and after the 1st November, 1966 the Official Gazette of the State of Punjab;](33)"Part" shall mean a Part of the enactment in which the word occurs;(34)"Pepsu" shall mean Patiala and East Punjab States Union; [as it existed immediately before the 1st November, 1956] [Certain words added at the end by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.](35)"Pepsu Act" shall mean an Act of the Legislature of the [territories which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab States Union] [Substituted for the words 'State of Patiala and East Punjab States Union' by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.] and shall include -(a)any Act or Ordinance made or promulgated by the Ruler of the former Patiala State and made applicable to Pepsu by virtue of section 3 of the Patiala and East Punjab States Union General Provisions (Administration) Ordinance, 2005 Bk.; and(b)an Ordinance made and promulgated by the Rajpramukh under Article X of the Covenant;(36)"person" shall include any company or association or body of individuals, whether incorporated or not;(37)"prescribed" shall mean prescribed by rules made under an enactment;(38)"public nuisance" shall mean a public nuisance as defined in the Indian Penal Code (Act XLV of 1860);(39)"registered", used with reference to a document shall mean registered under any law for the time being in force for the registration of documents;(40)"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;(41)"Schedule" shall mean a Schedule to the enactment in which the word occurs;(42)"section" shall mean a section of the enactment in which the word occurs;(43)"ship" shall include every description of vessel used in navigation not exclusively propelled by oars;(44)"sign", with its grammatical variations and cognate expressions, used with reference to a person who is unable to write his name, shall include "mark", with its grammatical variations and cognate expressions;(45)"son" in the case of any one whose personal law permits adoption, shall include an adopted son;(46)"State Government" shall mean, in relation to anything done or to be done after the commencement of the Constitution, the [Governor;] [Substituted for the word 'Raj Pramukh' by Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.][Provided that in relation to anything done before the 1st November, 1956, the expression shall mean the Rajpramukh;](47)"sub-section" shall mean a sub-section of the section in which the word occurs;(48)"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;(49)"vessel" shall include any ship or boat or any other description of vessel used in navigation;(50)"will" shall include a codicil and every writing making a voluntary posthumous disposition of property;(51)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;(52)"year" shall mean a year reckoned according to the British calendar.

4. Extent of Acts generally.

- Every Act of the Legislature of Pepsu passed after the commencement of this Act shall, unless the contrary is expressly provided therein, apply to the whole of the [territories which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab States Union.] [Substituted for the words 'State of Patiala and East Punjab States Union' by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.]

5. Coming into force of enactments.

(1)Where any Pepsu Act passed after the commencement of this 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 Rajpramukh or the President as the case may be is first published in the Official Gazette.(2)Unless the contrary intention is expressed, an Ordinance promulgated under article 213, read with article 238 of the Constitution shall come into force on the date on which it is promulgated.(3)Unless the contrary intention is expressed every Pepsu Act and every such Ordinance shall be construed as coming into force immediately on the expiration of the day proceeding its commencement.

6. Gender and number.

- In all enactments, 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 vice versa.

7. Commencement and termination of time.

- In any enactment, it shall be sufficient, for the purpose of excluding the first of 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 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 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 (IX of 1908), applies.

9. Duty to be taken pro rata in enactments.

- Where, by any enactment any duty of 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.

10. Measurement of distances.

- In the measurements 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. Repeal of Enactments

11. Effect of repeal.

- Where this Act or any Pepsu Act or any Ordinance made under article 213 read with article 238 of the Constitution, 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 or Ordinance had not been passed.

12. Repeal of law making textual amendment in other laws.

- Where any Pepsu Act or Ordinance made under article 213 read with article 238 of the Constitution repeals any enactment by which the text of any Pepsu Act or such Ordinance 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.

13. Construction of references to repealed enactments.

- Where this Act or any Pepsu Act or Ordinance made under article 213 read with article 238 of the Constitution 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.

14. Revival of repealed enactments.

- In any Pepsu Act or Ordinance made under article 213 read with article 238 of the Constitution, it shall be necessary, for the purpose of reviving either wholly or partially any enactment wholly or partially repealed expressly to state that purpose. Powers and Functionaries

15. Powers conferred to be exercisable from time to time.

- Where, by an 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.

16. 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.

17. Power to appoint to include power to suspend, remove 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, remove or dismiss any person appointed whether by itself or any other authority in exercise of that power.

18. Substitution of functionaries.

- In any enactment it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

19. Successors.

- In any 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.

20. Official chiefs and subordinates.

- In any enactment, 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 duties of 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

21. Construction of notifications, orders, etc., issued under enactments.

- Where, by any enactment, 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 enactment conferring the power.

22. Power to make to include power to add to, amend, vary or rescind notifications, etc.

- Where, by any enactment, a power to issue notifications or make 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 or made.

23. 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, 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: Provided that where all the provisions contained in an enactment 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 provision or enactment with respect to which they are so made or issued.

24. Provision 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, unless such enactment 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 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)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 Official Gazette of a rule or bye-laws purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

25. Continuation of orders, etc., issued under enactments repealed and re-enacted.

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

26. Citation of enactments.

(1) In any Pepsu Act or Ordinance made under article 213 read with article 238 of the Constitution, and in any rule, bye-law, instrument, or document made under, or with reference to any such Act or Ordinance, 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) Any such citation of, or reference to, any enactment shall, unless a different intention appears, be deemed to be citation of, or reference to such enactment as amended. (3) In any Pepsu Act or Ordinance made under article 213 read with article 238 of the Constitution, 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 or as forming the end of the portion comprised in the description or citation. Miscellaneous

27. Recovery of fines.

- Sections 63 to 70 of the Indian Penal Code (Act XLV of 1860), and the provisions of the Code of Criminal Procedure, 1898 (Act V 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 enactment, rule or bye-law, unless the enactment, rule or bye-law contains express provisions to the contrary.

28. 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 these enactments but shall not be liable to be punished twice for the same offence.

29. Meaning of service by post.

- Whether any enactment authorises or requires any document to be served by post, whether the expression "serve" or either of the expression "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly

addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

30. References to Central and Punjab Acts to be construed as references to those Acts as in force in Pepsu.

- Any reference in any enactment to any Central Act or Punjab Act shall be construed as a reference to that Act as in force in the [territories which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab State Union.] [Substituted for the words 'State of Patiala and East Punjab States Union' by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.] Explanation. - In this section, the expression "Punjab Act" shall have the meaning assigned to it by clause (46) of section 2 of the Punjab General Clauses Act, 1898 (I of 1898).

31. Effect of expiry of Ordinances and temporary Pepsu Acts.

- The provision of section 11 shall apply -(a) on the expiry or withdrawal of any Ordinance promulgated under article 213 read with article 238 of the Constitution, and (b) on the expiry of any Pepsu Act, the duration of which is expressed to be for a specified period, as if such Ordinance or Act had been an enactment and had then been repealed by a PEPSU Act.

32. Repeal and Saving.

- The Pepsu General Clauses Act, 1953 (President's Act No. 7 of 1953), except the proviso to section 32 thereof, is hereby repealed.