

Nagaland Interpretation and General Clauses Act, 1978

NAGALAND

India

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Act 6 of 1979

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Nagaland Interpretation and General Clauses Act, 1978 Nagaland Act No. 6 of 1979 Last Updated 18th February, 2020 [Received the assent of the Governor on 26th July, 1979]. An Act to provide for the interpretation of Nagaland enactments and for shortening the language thereof Be it enacted by the Legislature of Nagaland in the Twenty-ninth Year of the Republic of India as follows :

Chapter I Preliminary

1. Short title and commencement.

(1) This Act may be called the Nagaland Interpretation and General Clauses, Act, 1978. (2) It shall be deemed to have come into force on the 1st day of December, 1963.

2. Application of Act.

- Save as otherwise expressly provided herein, the provisions of this Act shall, unless the context otherwise requires, apply 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, shall have the same meaning as in the Indian Penal Code, 1860 (45 of 1860); (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 to 1909 or any of those Acts, or under the Government of India Act, 1915 or by the Local Legislature of Assam under the Government of India Act, 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 the document in the presence of the executant, but no particular form of attestation shall be necessary; (6) "Bengal Act" means an Act made by the Lieutenant Governor of Bengal in Council under the Indian Councils Act, 1861 or the Indian Councils Acts, 1861 and 1892 or the Indian Councils Acts, 1861, 1892 and 1909 or made by the Governor in Council of Fort William in Bengal under the Indian Councils Acts, 1861 1892 and 1909 or by the Local Legislature of Bengal under the Government of India Act; (7) "Central Act" means an Act of Parliament and includes an Act passed or made before the commencement of the Constitution - (a) by the Dominion Legislature or the Indian Legislature, or (b) by the Governor-General in Council or the Governor General acting in a legislative capacity; (8) "Central Government" in relation to anything done or to be done after the commencement of the Constitution, mean the President, and includes in relation of functions entrusted under Clause (1) of Art. 248 of the Constitution to the Government of Nagaland acting within the scope of the authority given to it under that clause; (9) "Chapter" means a Chapter of the enactment in which the word occurs; (10) "child" in the case of any one whose personal law permits adoption, includes an adopted child; (11) "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; (12) "Collector" means the Chief Officer incharge of revenue administration of a district; (13) "commencement" used with reference to an enactment, means the day on which the enactment comes into force; (14) "Commissioner" means the Chief Officer incharge of the revenue administration of a division; (15) "Constitution" means the Constitution of India; (16) "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; (17) "daughter" in the case of any one whose personal law permits adoption, includes an adopted daughter; (18) "day" means a period of twenty-four hours beginning at midnight; (19) "Deputy Commissioner" means the Chief Officer incharge of the general and judicial administration of a district; (20) "District Court" or the principal Civil Court of original jurisdiction, means the court of Deputy Commissioner or Additional Deputy Commissioner; but does not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction; (21) "District Judge" means the Judge of a District Court, and includes an Additional District Judge; (22) "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, as evidence of that matter; (23) "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 1912 ;(24)"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 ;(25)"enactment" means an Act of the Nagaland Legislature and includes a Regulation, Nagaland Ordinance and any provision contained in any Act, Regulation or Ordinance as aforesaid ;(26)"father" in the case of any one whose personal law permits adoption, includes an adoptive father ;(27)"financial year" means the year commencing on the first day of April ;(28)"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;(29)"Government" or "the Government" includes the State Government as well as the Central Government;(30)"Government of Nagaland" means the Governor ;(31)"Government securities" means securities of the Government of Nagaland, the Central Government or of any State Government;(32)"High Court" means the Gauhati High Court (The High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);(33)"immovable property" includes land, benefit to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;(34)"imprisonment" means imprisonment of either description as defined in the Indian Penal Code, 1860 (45 of 1860) ;(35)"judicial proceeding" includes any proceeding in the course of which evidence is, or may be, legally taken ;(36)"local authority" means a municipal corporation municipality, a municipal committee, town committee, a local or district board or any other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund ;(37)"local law" means a law applicable only to a part of Nagaland;(38)"Magistrate" includes every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1973 (2 of 1974) or Nagaland Rules for Administration of Justice and Police Rules, 1937 or under any other law, for the time being in force, relating to criminal procedure ;(39)"master" used with reference to a ship, includes every person (except a pilot or harbourmaster) having, for the time being, command or charge of the ship ;(40)"Nagaland" means the State of Nagaland formed under section of the State of Nagaland Act, 1962 and comprising the areas specified therein;(41)"notification" means a notification in the official Gazette ;(42)"Official Gazette" means the official Gazette of Nagaland ;(43)"Nagaland Act" means an Act passed by the Legislative Assembly of Nagaland ;(44)"month" means a month reckoned according to the Gregorian Calendar;(45)"movable property" means property of every description except immovable property ;(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)"Nagaland Ordinance" means an Ordinance promulgated by the Governor of Nagaland ;(49)"Part" means a part of the enactment in which the word occurs ;(50)"person" includes any company or association or body of individuals, whether incorporated or not ;(51)"prescribed" means prescribed by rules made under an enactment in which the word occurs ;(52)"public" includes any class or section of the public ;(53)"public nuisance" means a public nuisance as defined in the Indian Penal Code, 1860 (45 of 1860);(54)"registered" used with reference to a document, means registered in India under the law the time being in force for the registration of documents ;(55)"regulation" means a Regulation made by the Governor under the Sixth Schedule to the Constitution or under the Government of India Act, 1935, and shall include the Regulation as defined in Clause (50) of Section 3 of the General Clauses Act, 1897 (Central Act 10 of 1897);(56)"rule" means a rule made in exercise of a power conferred by any enactment and

includes a regulation made as a rule under any enactment;(57)"schedule" means a schedule to the enactment in which the word occurs ;(58)"section" means a section of the enactment in which the word occurs ;(59)"ship" includes every description of vessel used in navigation not exclusively propelled by oars ;(60)"sign" with its grammatical variations and cognate expressions, used with reference to a person who is unable to write his name, includes "marks" with its grammatical variations and cognate expressions ;(61)"son" in the case of any one whose personal law permits adoptions, includes an adopted son ;(62)"special law" means a law applicable to a particular subject only ;(63)"State" means a State specified in the First Schedule to the Constitution, and includes a Union territory ;(64)"sub-section" means a sub-section of the section to which the word occurs ;(65)"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 ;(66)"vessel" includes any ship or boat a any other description of vessel used in navigation(67)"will" and "codicil" have the meanings respectively assigned to them in the Indian Succession Act, 1925 (30 of 1925) ;(68)"writing" expression referring to "writing" shall be construed as including reference to printing, typewriting, photography and other modes of representing or reproducing words in a visible form ; and(69)"year" means a year reckoned according to the Gregorian Calendar.

4. Definitions 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 Nagaland Act.

- Every enactment shall, unless the contrary is expressly provided therein, apply to the whole of Nagaland.

6. Coming into force of enactments.

(1)Where a Nagaland 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 Nagaland 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 enactment.

- 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 not form part of the said enactment and it 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 may 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 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 had exercised all due diligence to prevent the commission of such offence. (2) Where any 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 of, or that the commission of the offence is attributable to any neglect on his part, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes 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 ; and(b)words in the singular shall be taken to include the plural, and vice-versa.

13. Commencement of 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 words "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 timing.

- 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 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, 1963 (36 of 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 or 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 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 purposes of any enactment, that distance shall, unless a different intention appears, be measured in a straight line a horizontal plane.

18. Penalties provided to be maximum penalties.

- Where, 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, wherever 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.

- Where an act or omission constitutes an offence under two or more enactments, then 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 offence.

Chapter IV

Repeal and Expiry of Enactments

22. Effect of repeal.

- Where Nagaland Act, Ordinance or Regulation 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.

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

- Where a Nagaland 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 on the happening of a particular contingency) amend 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 by the amending Act, if such amendment was in force at the time of the repeal.

24. Construction of references to repealed enactments.

- Where a Nagaland Act, Ordinance or Regulation repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment to the provision so repealed, shall, unless, different intention appears, be construed as references to the provision so re-enacted.

25. Revival of repealed enactments.

- 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 any 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 instituted, continued or enforced, and any such penalty,forfeiture or punishment may be imposed as if that enactment had not been 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 shall be exercised and that duty shall be performed from time to time as occasion requires.

28. Power 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 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 who is at the time of passing the enactment, executing the functions, or that of the officer by whom the functions are commonly executed.

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 that office in the place of their superior, to prescribe 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 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 ; and (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 appointment, rules, etc. issued under enactments repealed and re-enacted.

- Where any enactment is repealed and re-enacted with or without notification, 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 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 re-enacted.

38. 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 of rules before Legislative Assembly.

(1) Every rule made by the Government of Nagaland under any enactment shall be laid, as soon as may be after it is made, before the Legislative Assembly of Nagaland, while it is in session, for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following the session or the successive sessions aforesaid, the Legislative Assembly makes any modification in the rule or resolve that the rule should not be made, the rule shall thereafter have effect only in modified form or be of no effect, as the case may be, so however, that such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. (2) Any provision in an enactment made by Legislative Assembly in accordance with the provisions of sub-Section (1) 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 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 59 to 64 of the Indian Penal Code, 1860 (45 of 1860) and as far as may be the provisions of the Code of Criminal Procedure, 1973 (Act 2 of 1974) in relation to the issue and the 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 expression "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post, a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.