

Madras General Clauses Act, 1891

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Act 1 of 1891

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Madras General Clauses Act, 1891(Act No. 1 of 1891)Last Updated 4th February, 2020Preamble. - An Act for further shortening the language used in [Madras Acts] [Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.] and for other purpose.Whereas it is expedient to further shorten the language used in Madras Acts made and to make certain further provisions relating to those Acts. It is hereby enacted as follows.-

1. Short title.

(a)This Act may be called The Madras General Clauses Act, 1891; and(b)It shall come into force on the first day of January, 1892.

2.

- Notwithstanding anything contained in the Madras General Clauses Act. 1867, the provisions of that Act shall not apply to this Act or to any (Madras Act) which may be passed subsequent to the commencement of this Act.

3. Definitions.

- In this Act and in every (Madras Act made) after the commencement of this Act, unless there be something repugnant in the subject or context.-(1)"Abet". - "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code.(2)"barrister"- "barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland.(3)[x x x] [Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.](4)"Chapter", "part", "section" and "schedule".- "Chapter", "part", "section" and "schedule" shall mean respectively a Chapter part and section of, and schedule to, the Act in which the word occurs;(5)"City of Madras".- "City of Madras" shall mean such local area as is declared from time to time to be the City of Madras under any Act for the time being in force relating to the municipal

affairs of such city;(6)"Collector".- "Collector" shall include every officer, who, for the time being, is authorized to exercise the powers of a collector.(7)"Commencement".- "Commencement" used with reference to an Act, shall mean the time at which the Act comes into force;(8)"District Collector".- "District Collector" shall mean the chief local officer in charge of the revenue-administration of a district;(9)"Document".- "document" shall mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of these means, intended to be used, or which may be used, as evidence of that matter;(10)"Financial Year".- "financial year" shall mean the year commencing on the first day of April;(11)"Good Faith". - nothing is said to be done or believed in "good faith" which is done or believed without due care and attention;(12)[x x x x] [Omitted by Government of India (Adaptation of Indian Laws Order 1937).](13)[x x x x] [Omitted by Adaptation (Amendment) Order, 1950.](14)"Immovable property".- "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to earth;(15)"Imprisonment". - "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code.(15-A) [x x x x](16)"Judicial proceeding".- "Judicial proceeding" shall mean any proceeding in the course of Which evidence is, or may be, legally taken;(17)"Local authority". - "Local authority" shall mean a Municipal Committee, District Board, Body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;[(17-A) "Madras Act" 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 State of Madras under the Government of India Act, or by the Provincial Legislature of Madras under the Government of India Act, 1935, or by the Legislature of the State of Madras under the Constitution] [Substituted by Adaptation (Amend) Order, 1950.](18)"Magistrate".- "Magistrate" shall mean any person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1882.(19)"Movable property".- "movable property" shall mean property of every description except immovable property;(19-A) ["Notification" shall mean a notification published In the Official Gazette.] [Inserted by Act XXXVI of 1955.](20)"Oath" "Swear" and "affidavit". - "Oath" "Swear" and affidavit" shall include affirmation and declaration in the case of person by laws allowed to affirm or declare instead of swearing;(21)"Offence". - "offence" shall mean any act or omission made punishable by any law for the time being in force;(22)"Person". - "Person" shall include any company or association of individuals, whether incorporated or not;(23)"Place". - "Place" includes also a house, building, tent and vessel.(24)"Prescribed". - shall mean prescribed by rule, regulation by-laws made under the act, in which the word occurs.(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".- "public" includes any class of the public or any community(27)"Public nuisance". - "Public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code;(28)"Registered". - "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.(29)"Sign". - sign with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions.(30)"son" and "father". - In the case of anyone whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father;(31)"Sub-section". - "sub-section" shall mean a sub-section of the section in which the word occurs;(32)"value".- "value",

used with reference to a suit, shall mean the amount or value of the subject-matter of the suit, computed according to the law for the time being in force regulating the valuation of suits for purposes of jurisdiction.(33)"Will". - "will" shall include a codicil and every writing making a voluntary posthumous distribution of property.(34)"Gender". - words importing the masculine gender shall include females.(35)"Number". - words in the singular shall include the plural, and words in the plural shall include the singular;(36)"Illegal Omissions". - words which refer to acts done extend also to illegal omissions;(37)"Writing". - writing with its grammatical variations and cognate expressions, shall include "printing", "lithography". "Photography", with their grammatical variations and cognate expressions, and other modes representing or reproducing words in a visible form;(38)"Year and month". - "year" and "month" shall, respectively mean a year and month reckoned according to the British calendar.

4. Application of Chapter II to all future Acts.

- The Chapter shall apply to all [Madras Acts made] [Substituted by Adaptation Order, 1937.] after the commencement of this Act, unless a contrary intention appears in such Acts.

5. Commencement of future Acts.

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

6. Making of rules and issue of orders between passing and commencement of Acts.

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

7. Provisions regulating the making of rules after previous publication.

- Where by an Act to which this Chapter applies, a power to make rules expressed to be given; subject to the conditions of the rules being made after previous publication, the following provisions shall apply namely.-(a)Publication of draft rules.- the authority having the power to make the rules shall, before making them, publish a draft of the proposed rules;(b)Manner of publication.- the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [Central

Government or, as the case may be, the State Government] [Substituted by Adaptation Order, 1937.].(c)Notice to accompany draft rules.- there shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration;(d)Consideration of suggestion in regard to draft rules.- the authority having power to make the rules, and, where the rules are to be made with 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 [Official Gazette] [Substituted by Adaptation (Amend) Order, 1950.] of a rule purporting to have been made in exercise of a power to make rules after previous publication, shall be conclusive proof that the rule has been duly made.

8. Effect of repealing an Act.

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

8A. 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] [Inserted by Act IV of 1937.].

9. Revival of repealed enactments In any Act to which the 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 of law relative to official superiors.- for the purpose of expressing that a law relative to the chief or superior of an officer 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 corporation; and(f)Application of law to persons for time being filling an office. - for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions or that of the officer by whom the functions are commonly executed.

10. Expressions used in bye-laws and orders to have same meaning as in Act under which they are made or issued.

- Where an Act, to which this Chapter applies, confers power to make rules or bye-laws or [to issue notifications or orders] [Inserted by Act XXXVI of 1955.], expressions used in such rules, bye-laws [notifications] [Inserted by Act XXXVI of 1955.] or orders, have the same respective meanings as in the Act, conferring the power.

11. Necessary extension of prescribed periods.

- Where by an Act, to which this Chapter applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act 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. This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

12. Application of Chapter III to all Acts.

- This Chapter shall apply to (all Madras Acts) unless a contrary intention appears in any such Act, but it shall not affect anything done or commenced prior to the commencement of this Act under any enactment now in force.

13. When powers and duties to be exercised and performed.

- Where an Act confers a power or imposes a duty, then the power may be exercise and the duty shall be performed for time to time as occasion requires.

14. Exercise of power and performance of duty by temporary holder of office.

- Where an Act confers a power or imposes a duty on the holder of an officer, as such, then the power maybe exercised and the duty shall be performed by the holder for the time being of the office.

15. Revocation and alteration of rules, bye-laws and orders.

- Where an Act confers a power to make any rules or bye-laws, [or to issue notifications or orders,] [Inserted by Act XXXVI of 1955.] the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, bye-laws notifications or orders.

16. Duty leviable prorata.

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

17. Mode of conferring powers and imposing duties.

- Whenever by an Act authority is given to confer power 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 proviso is in Acts repealed and re-enacted.

- Where an Act repeals and re-enacts, with or without modification on, all or any of the provisions of a former Act, references in any other Act to provisions so repealed shall be construed as references to the provisions so re-enacted, and if notifications have been published, proclamations or certificates issued, powers conferred, forms prescribed, local limits defined, offices established, orders, rules and appointments made, engagements entered into, licenses 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 reenacted, 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 sections 63, 68, 69 and 70 on 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 the [Official Gazette]
[Substituted by Adaptation order, 1937.]

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, any Government is empowered to extend or apply an Act or any provision of an Act to any place, in, or any portion of the [State] [Substituted by Adaptation order, 1937.] the Government may, in any order extending or applying such Act or provision or in a subsequent order, notify the time at which the same shall come into force in the place or portion of the [State] [Substituted by Adaptation order, 1937.] 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] [Substituted by Adaptation order, 1937.] or cancel the order for extending or applying the same to such place or portion of the State:Proviso.- Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the State to which such order relates.[Chapter IV [Substituted by Adaptation order, 1937.] Applications to Ordinances and Regulations

23. Application of Act to Regulation and ordinances.

- The provisions of this Act shall apply-](a)in relation to any Regulation made by the Governor of Madras under section 92 of the Government of India Act, 1935, as they apply in relation to Madras Acts made by the Provincial Legislature; and(b)in relation to any Ordinance promulgated by the Governor under section 213 of the Constitution or any Regulation made by him under paragraph 5 of the Fifth Schedule to the Constitution, in like manner as they apply in relation to Madras Acts made by the State Legislature:Provided that sub-section (1) of Section 5 of this Act shall apply to any Ordinance referred to in clause (b) as if the reference in that subsection to the day of the first publication of the assent to the Act in the Official Gazette were a reference instead to the day of the first publication of the Ordinance in that Gazette.