

# The General Clauses Act, 1977 (1920 A. D.)

JAMMU & KASHMIR

India

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### Rule THE-GENERAL-CLAUSES-ACT-1977-1920-A-D of 1920

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The General Clauses Act, 1977 (1920 A. D.) Act No. 20 of Svt. 1977 [Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with the State Council Resolution No. 1, dated 8th April, 1925 (Notification No. 14-L/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. Short title, extent and commencement.

(1) This Act may be called the General Clauses Act, 1977. (2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

#### 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. - "Abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Ranbir Penal Code ; (2) Act. - "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. - "Affidavit", shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; (4) Barrister. - "Barrister", shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland ; (5) British India. - "British India" shall mean, as respects the period before the commencement of Part III 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 Part A of the First Schedule to the Constitution of India and the States of Ajmere, Coorg and Delhi; ] [Clause (5) substituted by A. L. O. (Svt). 2008.](6)British possession. - "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 ;(7)Chapter. - "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs;[(7-a) Repealed] [Clause (7-a) (definition of 'Chief Judge') repealed by Notification No. 3-L/85 published in Government Gazette dated 8th Bhadoon, 1985.];[(8) Collector. - "Collector" shall mean, the Deputy Commissioner of a district; ] [Clause (8) substituted by Act III of Svt. 2008.](9)Commencement. - "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. - "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. - "Document" shall include any matter written, expressed or described upon any substance by means or 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 ;[(11-A) Enactment. - "Enactment" shall include any provision contained in any Act;] [Clause (11-a) added by A.L.O. 2008. (Svt).](12)Father. - "Father", in the case of any one whose personal law permits adoption, shall include an adoptive father;[(13) Financial Year. - "Financial year" shall mean the year commencing on the 1st day of April; ] [Clause (13) substituted by Act XXI of Svt. 2011 w.e.f. 1st April, 1955. (For earlier amendments see Notification No. 7-L/84 published in Government Gazette dated 17th Jeth, 1984 and Act IX of Svt. 1998).](14)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;[(15) Omitted.] [Clause (15) definition of 'Government' omitted Act by XIX of 1957 w.e.f. 26-1-1957.](16)Government of India. - "Government of India" shall- [Clause (16) substituted by A.L.O. 2008. (Svt).](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. - "His Majesty" or "the King" shall include his successors;[(18) Repealed.] [Clause (18) (definition of 'High Court') repealed by Notification No. 3-L/85 published in Government Gazette dated 8th Bhadoon, 1985.](19)Immovable property. - "Immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;(20)Imprisonment. - "Imprisonment" shall mean imprisonment of either description as defined in Ranbir Penal Code;[(21) India. - "India" shall mean- [Clause (21) substituted by A.L.O. 2008 (Svt).](a)as respects any period before the commencement 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 commencement 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 ;][(21-A) Indian State. - "Indian State" shall mean- [Clause (21-a) inserted by A.L.O. 2008 (Svt).](a)as respects any period before the commencement of the Constitution of India any territory which the Government of India recognized as such 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 Part 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. - "Local authority" shall mean a municipal committee or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;(23)Magistrate. - "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;[(24) Minister. - "Minister" shall include the Chief Justice and a Judge of the High Court of Judicature] [Clause 24 substituted by Notification No. 3-L/85 published in Government Gazette dated 8th Bhadoon, 1985.] [and every person appointed as Advisor to the Governor consequent on the Governor assuming the functions of the Government of the State under section 92 of the Constitution of Jammu and Kashmir] [Added by Act No. 2 of 2018, dated 21.6.2018.];(25)Month. - "Month" shall mean a month reckoned according to the [Gregorian calendar ; ] [Substituted by Act XXI of Svt 2011 for 'Bikrami Calendar' with effect from 1st April, 1955.](26)Movable property. - "Movable property", shall mean property of every description, except immovable property;(27)Oath. - "Oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing ;(28)Offence. - "Offence" shall mean any act or omission made punishable by any law for the time being in force;(29)Part. - "Part" shall mean a Part of the Act or Regulation in which the word occurs ;[(29-A) Part A, B and C States. - "Part A State" shall mean a State for the time being specified in Part A of the First Schedule to the Constitution of India, "Part B State" shall mean a State for the time being specified in Part B of that Schedule and "Part C State" shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of article 243 of the Constitution of India; ] [Clause (29-a) inserted by A.L.O. 2008 (Svt).](30)Person. - "Person" shall include any company or association or body of individuals, whether incorporated or not;[(31) Political Agent. - "Political Agent" shall mean- [Clause (31) substituted by A.L.O. 2008 (Svt).](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. - "Public nuisance" shall mean a public nuisance as defined in the Ranbir Penal Code;(33)Registered. - "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. - "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. - "Schedule" shall mean a schedule to the Act or-Regulation in which the word occurs ;(36)Section. - "Section" shall mean a section of the Act or Regulation in which the word occurs ;(37)Boat. - "Boat" shall include every description of Vessel used in navigation not exclusively propelled by oars;(38)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;(39)Son. - "Son", in the case of any one whose personal law permits adoption, shall include and adopted son ;[(39-A) The State. - "The State" mean the State of Jammu and Kashmir;] [Clause (39-a) substituted by Act X of Svt. 2010.](40)Sub-section. - "Sub-section" shall mean a sub-section of the section in which the word occurs ;(41)Swear. - "Swear", with its grammatical variations and cognate expression, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;(42)Vessel. - "Vessel" shall include any boat or any other description of vessel used in navigation ;(43)Will. - "Will" shall include a codicil and every writing making a voluntary posthumous disposition of property;(44)A writing. - 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(45)Year. - "Year" shall mean a year reckoned according to the [Gregorian calendar.] [Substituted by Act XXI of Svt. 2011 for 'Bikrami calendar' w.e.f. 1st April, 1955.]

#### **4.**

Omitted.General Rules of Construction

#### **5. [ Coming into operation of enactments. [Section 5 inserted by Act XIX of 1957 w.e.f. 26-1-1957.]**

- Where any Act is not expressed to come into operation on a particular day it shall come into operation on the day on which the assent thereto of the Governor is published in the Government Gazette.]

#### **6. Effect of repeal.**

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

#### **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, any enactment 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 reenacts, 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.

## **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 Limitation Act, applies.

## **11. Measurement of distances.**

- In the measurement of any distance, for the purposes of any 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.

## **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 merchandize, then a like duty is leviable according to the same rate on any greater or less quantity.

## **13. Gender and 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 of appoint to include powers 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 this Act may be made either by name or by virtue of office.

#### **16. Power to appointment 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 functions, 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 relation to the functionaries or corporations.

#### **19. Official chief and sub-ordinates.**

- In any Act made after 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

power.

## **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 there-under, 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-law 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 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 tire condition with respect to previous publication so requires, in such manner as [the Government] [Substituted by Act VII of Svt. 2001 for 'His Highness'.] 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 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 rule or bye-law has 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, [rules,] [Added by corrigendum published in Government Gazette dated 2nd February, 1956.] 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. Miscellaneous

## **25. Recovery of fines.**

- Sections 63 to 70 of the Ranbir 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 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 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.

## **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, 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 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 constructed 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 Acts, rules or bye-laws made after the commencement of this Act, shall not affect the construction of any Act, Regulation, rule or bye-law 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. Application of Act to Ordinances.**

- In this Act, the expression Act or Regulation, wherever it occurs, and the word 'Act' in clauses [(7), (9), (29), (35) and (36)] [Substituted by Act II of Svt. 1997 for '(9), (12), (38), (48) and (5O)'.] of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by His Highness [or the Sadar-i-Riyasat.] [Inserted by Act X of Svt. 2010.]