

## Chapter 14

### Interpretation of Statutes

#### Introduction

<b>Statute</b>	<p>'Statute' has been defined as the written will of the legislature. The term denotes an Act enacted by the legislative authority (e.g. Parliament of India). The Constitution does not use the terms 'statute' though one finds the terms 'law' used at many places.</p> <p>The terms 'law' is defined as including any ordinance, order, rule, regulation, notification and the like.</p>
<b>Interpretation of Statute</b>	<p>Interpretation is process by which the Courts seek to ascertain the meaning of the legislature.</p> <p>Interpretation is the process of ascertaining the true meaning of the words used in a Statute. When the language of a Statute is unambiguous, there is no need for the rules of interpretation.</p> <p>But, in certain cases multiple meaning may be derived from the same word or sentence. It is therefore necessary to interpret the Statute to find out the real meaning of the Statute.</p>
<b>Need of interpretation of Statute</b>	<p>Interpretation, thus, is a familiar process of considerable significance. The process of statute making and the process of interpretation of statutes take place separately from each other, and two different agencies are concerned. An interpretation of Act serves as the bridge of understanding between the two.</p> <p>Lord Denning in <i>Seaford Court Estates Ltd. v Asher</i> (1949) 2 All ER 155, observed, "English language is not an instrument of mathematical precision... it would certainly save the judges from the trouble if the Acts of Parliament were drafted with divine precision and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold hands and blame for the draftsman... He must set to work on the constructive task of finding the intention of Parliament and he must do this not only form the language of the Statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy"</p> <p>The process of interpretation is more legalistic and makes more intensive use of the legal technique in statutory interpretation.</p>
<b>Rules of interpretation</b>	<p>The rules of interpretation can be classified into 2 types:</p> <ul style="list-style-type: none"> <li>○ Primary Rules of Interpretation</li> <li>○ Secondary Rules of Interpretation</li> </ul>
<b>Primary Rules of Interpretation</b>	<ul style="list-style-type: none"> <li>○ Rule of Literal Construction</li> <li>○ Rule of Reasonable Construction</li> <li>○ Rule of Harmonious Construction</li> <li>○ Rule of Beneficial Construction</li> <li>○ Rule of Exceptional Construction</li> <li>○ Rule of Ejusdem Generis</li> </ul>

<b>Secondary Rules of Interpretation</b>	<ul style="list-style-type: none"> <li>○ Noscitur a Sociis</li> <li>○ Effect of usage</li> </ul>
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### Rule of Literal Interpretation/ Rule of Grammatical Interpretation

<b>Introduction</b>	<ul style="list-style-type: none"> <li>○ It is the cardinal rule of interpretation</li> <li>○ Words, sentences and phrases of a statute should be read in their ordinary, natural and grammatical meaning</li> </ul>
<b>Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ When the language of the statute is plain and unambiguous and admits of only one meaning, no question of interpretation of a statute arises.</li> <li>○ A word which has a definite and clear meaning should be interpreted with that meaning only, irrespective of its consequences.</li> </ul>
<b>Characteristics of the Rule</b>	<ul style="list-style-type: none"> <li>○ <b>Natural and Grammatical Meaning:</b> - Statute are to be first understood in their natural, ordinary, or popular sense. No words should be added or modified unless it is necessary to do so to prevent a provision from becoming absurd, or unreasonable with the rest of the Statute.</li> <li>○ <b>Popular Meaning:</b> - In case there is a word of everyday use in any Statute, it must be understood in its popular sense by which people are conversant with it.  Example: - In a question before the court whether the sale of betel leaves was subject to sales tax. In this matter SC held that betel leaves could not be given the dictionary, technical or botanical meaning when the ordinary and natural meaning is clear and unambiguous. Accordingly, 'betel leaves' are not vegetables</li> <li>○ <b>Technical words in technical sense:</b> This point of literal construction is that technical words are understood in the technical sense only.</li> </ul>
<b>Non-Applicability of the rule</b>	<p>Where the literal meaning results in unclear or unreasonable results, the Courts would discard the Literal Interpretation.</p> <p>Similarly, where the Statute is ambiguous and it becomes necessary to determine the legislative intent, the Court would follow the Reasonable Interpretation.</p>

### Rule of Reasonable Interpretation/ Rule of Logical Interpretation

<b>Introduction</b>	<p>The words of a statute must be construed so as to lead to a sensible meaning. Generally, the words or phrases of a statute are to be given their ordinary meaning. A statute must be construed in such a manner so as to make it effective and operative.</p> <p>While interpreting a law, two meanings are possible, one making the statute absolutely vague and meaningless and other leading to certainty and a meaningful interpretation, in such case the later interpretation should be followed</p>
<b>Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ Generally, words of Statute are given ordinary and natural meaning. No words should be added or modified.</li> </ul>

	<ul style="list-style-type: none"> <li>○ However, if ordinary meaning fails to achieve the intent of law, Court may modify meaning of words and even the structure of the sentence. It is not reasonable to presume that acts of Parliament were drafted with divine precision and perfect clarity. There can be omissions or deficiencies in drafting of law.</li> <li>○ This Rule is based on principle that intention of law should be given more importance than mere words of legislature.</li> <li>○ If ordinary meaning fails to achieve purpose of Law, Court shall find out the intention of Statute. For determining intention of statute Court may look into: <ul style="list-style-type: none"> <li>✦ Circumstances which necessitated passing of Statute</li> <li>✦ Circumstances which existed when law was passed</li> <li>✦ Intention of legislature may be determined from design of the Statute.</li> </ul> </li> <li>○ Thus, Courts are even empowered to correct drafting errors which includes addition/omission/substitution of words in order to achieve the true intent of legislature.</li> </ul>
<b>Non-Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ Where ordinary meaning is clear</li> <li>○ Reasonable construction is absurd</li> </ul>
<b>Example</b>	<p>In ICAI vs Price Waterhouse, council of ICAI referred a complaint of professional misconduct to disciplinary committee.</p> <p>Rules provided that if disciplinary committee reports respondents as guilty the council of ICAI could direct further inquiry.</p> <p>If Literal Interpretation is adopted it would mean Council of ICAI could not direct further inquiry if disciplinary committee reports respondents as non-guilty</p> <p>However, Council of ICAI is superior to disciplinary committee</p> <p>There as per Rule of Reasonable Interpretation it was decided council could direct inquiry.</p>

### Rule of Harmonious Construction

<b>Introduction</b>	The statute is passed as a whole and therefore it should be read as whole. In certain circumstances there might be conflict between two or more provisions in a statute and therefore in such circumstances, harmonious construction is to be adopted.
<b>Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ When two or more provisions in a Statute relate to same subject matter and are conflicting with each other, harmonious interpretation should be adopted. It shall be duty of Courts to avoid any head on clash.</li> <li>○ Where there are in an enactment two or more provisions which cannot be reconciled with each other, they should be so interpreted, wherever possible, as to give effect to all of them.</li> </ul>

	<ul style="list-style-type: none"> <li>○ The provisions of one Section of a statute cannot be used to defeat the other provisions unless the court, in spite of its efforts, finds it impossible to effect reconciliation between them.</li> <li>○ If it is impossible to harmonise the two conflicting provisions, the resource shall be as follows: <ul style="list-style-type: none"> <li>✦ The provision enacted or amended later in point of time shall prevail.</li> <li>✦ The Court shall find out which provision is more general and which is more specific. The more general provisions shall be so construed as to exclude the more specific provision.</li> </ul> </li> </ul>
<b>Non-Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ When there is mere apparent conflict between the provisions of an Act</li> <li>○ One of provisions has been made subject to the other or one of provisions overrides the other</li> </ul>

**Example 1: Section 26 (4) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for filing, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney.**

**Section 25 (4) : Where a person making an offer to which this section relates is a company , it shall be sufficient if the deemed prospectus is signed on behalf of the company**

**Example 2: Section 218(4) : The decision of the Appellate Tribunal on such appeal shall be final and binding on the Tribunal and on the company, other body corporate or person concerned.**

**Section 423: Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within 60 days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order**

**Example 3: Section 188: No GM-OR required if transactions under following limit:**

**(i) sale, purchase or supply of any goods or material, amounting to ten percent or more of the turnover of the company**

**(ii) selling or otherwise disposing of or buying property of any kind, amounting to ten percent or more of net worth of the company**

### **Rule of Beneficial Construction/ Mischief Rule/ Heydon's Rule**

<b>Introduction</b>	Where the language used in a statute is capable of more than one interpretation, the most firmly established rule for construction is the principle laid down in the Heydon's case.
<b>Applicability of the Rule</b>	<ul style="list-style-type: none"> <li>○ In a case where the usual meaning of the language used falls short of the whole object of the legislature, a more extended meaning may be attributed to the words.</li> <li>○ The Court shall consider following four matters <ul style="list-style-type: none"> <li>✦ what was the law before the making of the Act;</li> <li>✦ what was the mischief or defect for which the law did not provide;</li> <li>✦ what is the remedy that the Act has provided; and</li> <li>✦ what is the reason for the remedy.</li> </ul> </li> <li>○ After the Court considers following four matters, rule requires Court to adopt a construction that would suppress the mischief and advance the remedy.</li> <li>○ If the object of a statute is public safety then words can be given more extended meaning. Likewise in case of any penal provisions can be given extended meaning to suppress the mischief.</li> </ul>
<b>Non-Applicability</b>	<ul style="list-style-type: none"> <li>○ Where ordinary meaning is clear</li> <li>○ Fiscal Statutes</li> </ul>

**Example: Section 138 of Negotiable Instruments Act 1881**

Where any cheque drawn by a person is returned by the bank unpaid, because of insufficiency of funds, such person shall be deemed to have committed an offence and shall be punished with imprisonment for a term which may extend to 2 years, or with fine which may extend to twice the amount of the cheque, or with both.

Mr Hoshiyar the drawer makes 'stop payment' order to the banker (i.e., he countermands payment) resulting in dishonour of the cheque, can the proceedings u/s 138 may be initiated against Mr Hoshiyar?

**Example: If any officer or employee of a company –**

- (a) wrongfully obtains possession of any property, including cash of the company; or
- (b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act, he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than Rs. 1 Lakh but which may extend to Rs. 5 Lakh.

### **Rule of Exceptional Construction**

<b>Common Sense Rule</b>	Despite the general rule that full effect must be given to every word, if no sensible meaning can be fixed to a word or phrase, or if it would defeat the real object of the enactment, it should be eliminated.
<b>Conjunctive and Disjunctive Words</b>	<ul style="list-style-type: none"><li>○ The word 'or' is normally disjunctive and 'and' is normally conjunctive.</li><li>○ However, at times they are read as vice versa to give effect to the intention of the legislature</li><li>○ In such a case 'and' may be read for 'or' and 'or' for 'and'</li></ul>

<b>Mandatory and Directory Provisions</b>	<ul style="list-style-type: none"> <li>○ The distinction between a provision which is 'mandatory' and one which is 'directory' is that when it is mandatory, it must be strictly observed; when it is 'directory' it would be sufficient that it is substantially complied with.</li> <li>○ We have to look to the substance and not merely the form: an enactment in mandatory form might substantially be directory and, conversely, a statute in directory form may in substance be mandatory</li> </ul>
<b>Construction of word "May"</b>	<ul style="list-style-type: none"> <li>○ Word may is generally supposed to have directory force only</li> <li>○ In following circumstances may has a mandatory force <ul style="list-style-type: none"> <li>✦ The legislature uses the word 'may' as a matter of pure conventional courtesy and yet intend a mandatory force</li> <li>✦ Where the word 'may' involve a discretion coupled with an obligation</li> <li>✦ Where giving the word a directory significance would defeat the very object of the Act</li> </ul> </li> </ul>
<b>Construction of word "Shall"</b>	<ul style="list-style-type: none"> <li>○ Word shall is generally supposed to have mandatory force only</li> <li>○ In following circumstances shall has a directory force <ul style="list-style-type: none"> <li>✦ Where it has been used against the Government, unless a contrary intention is manifest in the Statute; or</li> <li>✦ Where the intention of the legislature so demands; or</li> <li>✦ Where giving it a mandatory interpretation would result in absurd results.</li> </ul> </li> </ul>

**Example: Section 101: A general meeting of a company may be called by giving not less than clear 21 days notice either in writing or through electronic mode in such manner as may be prescribed.**

**Sec. 173(3): A meeting of the Board shall be called by giving not less than 7 days notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means:**

## Rule of Ejusdem Generis

<b>Applicability of Rule</b>	<ul style="list-style-type: none"> <li>○ Statute contains an enumeration of specific words</li> <li>○ The specific words constitute a class or category</li> <li>○ That class or category is not exhausted by the specific words</li> <li>○ The general terms follow specific words</li> <li>○ There is no indication of a different legislative intent</li> </ul>
<b>Examples</b>	<ul style="list-style-type: none"> <li>○ 'in the expression in consequence of war, disturbance or any other cause', the words 'any other cause' would take colour from the earlier words 'war, disturbance' and therefore, would be limited to causes of the same kind as the two named instances.</li> <li>○ Where an Act permits keeping of dogs, cats, cows, buffaloes and other animals, the expression 'other animals' would not include wild animals like lions and tigers, but would mean only domesticated animals like horses, etc.</li> <li>○ Where there was prohibition on importation of 'arms, ammunition, or gunpowder or any other goods' the words 'any other goods' were construed as referring to goods similar to 'arms, ammunition or gun powder' (AG vs. Brown (1920), 1 KB 773).</li> </ul>
<b>Non Applicability</b>	<ul style="list-style-type: none"> <li>○ Where any of 5 conditions stated above are not satisfied</li> <li>○ The courts have a discretion whether to apply the 'ejusdem generis' doctrine in particular case or not</li> </ul>

**Example: Section 271. Circumstances in which company may be wound up by Tribunal.**

A company may, on a petition under section 272, be wound up by the Tribunal,—

- (a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;
- (b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;
- (c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;
- (d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or
- (e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up



## Noscitur a sociis [Associated Words to be Understood in Common Sense Manner]

<b>Meaning</b>	<p>The concept of 'Noscitur A Sociis' ('it is known by its associates'), that is to say 'the meaning of a word is to be judged by the company it keeps'.</p> <p>When two or more words which are capable of analogous (similar or parallel) meaning are coupled together, they are to be understood in their cognate sense (i.e. akin in origin, nature or quality).</p> <p>They take, as it were, their colour from each other, i.e., the more general is restricted to a sense analogous to the less general.</p> <p>It is a rule wider than the rule of ejusdem generis, rather ejusdem generis is only an application of the noscitur a sociis.</p>
<b>Example</b>	<p>In the expression 'commercial establishment means an establishment which carries on any business, trade or profession', the term 'profession' was construed with the associated words 'business' and 'trade' and it was held that a private dispensary was not within the definition. (Devendra M. Surti (Dr.) vs. State of Gujrat, AIR 1969</p>

### Effect of usage

Where the words of a deed are ambiguous, the Court may refer to the acts done in pursuance of such deed, as a clue to the intention of the parties. Their acts are the result of usages and practices in the society.

Therefore, their acts are useful in interpretation of the deed. This principle of 'usage' may also be applied in interpreting the Statutes. The principle of 'usage' is based on the following two maxims:

- I. **Optima legum interpret est consuetudo:-** The maxim means that the custom is the best interpreter of law.
- II. **Contemporenea expositio est optima et fortissimo in lege :-**

The word maxim 'Contemporenea expositio est optima et fortissimo in lege.' or simply 'contemporanea expositio' means interpreting a Statute or any other document by reference to the exposition it has received from contemporary authority. Thus, if the language of a Statute is ambiguous, the Court shall pay due regard to the interpretation that the language of the Act has received over a long period of time. In other words, interpretation accepted and acted upon for a long time should not be altered. This principle also emphasises that when interpreting a document or Statute, it should be read as it would have been read when it was enacted or written.

### Internal Aids to Interpretation of Statutes

<b>Title</b>	<p>An enactment would have what is known as a 'Short Title' and also a 'Long Title'.</p> <ul style="list-style-type: none"><li>○ <b>Short Title:-</b> The 'Short Title' merely identifies the enactment and is chosen merely for convenience. It is not used for interpretation of statutes.</li><li>○ <b>Long Title:-</b> 'Long Title', describes the enactment and does not merely identify it. It is now settled that the Long Title of an Act is a part of the Act. We can,</li></ul>
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	<p>therefore, refer to it to ascertain the object, scope and purpose of the Act and so is admissible as an aid to its construction, although it cannot override the clear meaning of the enactment</p> <p>Example: Full title of the Supreme Court Advocates (Practice in High Courts) Act, 1951 specify that this is an Act to authorize Advocates of the Supreme Court to practice as of right in any High Court.</p> <p>So, the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction.</p>
<b>Preamble</b>	<p>The Preamble expresses the scope, object and purpose of the Act more comprehensively than the Long Title. The Preamble may recite the ground and the cause of making a statute and the evil which is sought to be remedied by it.</p> <p>Like the Long Title, the Preamble of a Statute is a part of the enactment and can be used for interpreting it. However, the Preamble does not over-ride the plain provision of the Act but if the wording of the statute gives rise to doubts as to its proper construction, for example, where the words or phrase has more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the Preamble can be referred to in order to arrive at the proper construction.</p> <p>The Preamble to an Act discloses the primary intention of the legislature but can only be brought in as an aid to construction if the language of the statute is not clear. However, it cannot override the provisions of the enactment.</p> <p>Example: Use of the word 'may' in section 5 of the Hindu Marriage Act, 1955 provides that "a marriage may be solemnized between two Hindus....." has been construed to be mandatory in the sense that both parties to the marriage must be Hindus.</p> <p>It was held that a marriage between a Christian male and a Hindu female solemnized under the Hindu Marriage Act was void. This result was reached also having regard to the preamble of the Act which reads: 'An Act to amend and codify the law relating to marriage among Hindus' [Gullipoli Sowria Raj V. Bandaru Pavani, (2009)1 SCC714]</p>
<b>Heading and Title of a Chapter</b>	<p>If we go through any Act, we would generally find that a number of its sections applicable to any particular object are grouped together, sometimes in the form of Chapters, prefixed by Heading and/or Titles</p> <p>These Heading and Titles prefixed to sections or groups of sections can legitimately be referred to for the purpose of construing the enactment or its parts.</p> <p>However, there is a conflict of opinion about the weightage to be given to them. While one section of opinion considers that a heading is preamble to sections following it and therefore is to be regarded as giving the key to the interpretation of the clauses, while the other section of opinion is that the heading can only be taken when the enacting words are ambiguous. According to this view headings or titles prefixed to sections or group of sections may be referred to as to construction of doubtful expressions, but cannot be used to restrict the plain terms of an enactment.</p> <p>We must, however, note that the heading to one group of sections cannot be used to interpret another group of sections.</p>

<b>Marginal Notes</b>	<p>Marginal notes are title to a section. It summarises effect of section.</p> <p>In India Courts have given different views regarding use of Marginal Notes in construction of Statute.</p> <p>In C.I.T. vs. Ahmedbhai Umarbhai &amp; Co. Judge had declared: “Marginal notes in an Indian statute, as in an Act, of Parliament cannot be referred to for the purpose of construing the statute”, and the same view has been taken in many other cases.</p> <p>Many cases show that reference to marginal notes may be permissible in exceptional cases for construing a section in a statute.</p> <p>However, marginal notes to Articles of the Constitution have been held to be part of the Constitution as passed by the Constituent Assembly and therefore have been made use of in construing the Articles.</p>
<b>Definitional Sections/ Interpretation Clauses</b>	<p>The legislature has the power to include in a statute itself the definitions of its language and it is quite common to find in the statutes ‘definitions’ of certain words and expressions used in the body of the statute.</p> <p>The Court cannot ignore the statutory definition and try and extract what it considers to be the true meaning of the expression independently of it.</p> <p>The purpose of a definition clause is two-fold:</p> <ul style="list-style-type: none"> <li>○ to provide a key to the proper interpretation, and</li> <li>○ to shorten the language of the law by avoiding repetition of the same words contained in the definition part every time the legislature wants to refer to the expressions contained in the definition.</li> </ul> <p>When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act, the language of the provision and the object intended to be served thereby.</p> <p>Construction of definitions may be understood under the following headings: -</p> <ul style="list-style-type: none"> <li>○ <b>Exhaustive Definitions:</b> - When a word is defined to ‘mean’ such and such, the definition is ‘prima facie’ restrictive and exhaustive we must restrict the meaning of the word to that given in the definition section.</li> </ul> <p>The term ‘means and includes’ also implies the definition would be exhaustive.</p> <ul style="list-style-type: none"> <li>○ <b>Inclusive Definitions :-</b> Where the word is defined to ‘include’ such and such, the definition is ‘prima facie’ extensive: here the word defined is not restricted to the meaning assigned to it but can also include something in addition to the meaning assigned to it in the definition section.</li> </ul>
<b>Illustrations</b>	<p>Many sections have illustrations appended to them. These illustrations follow the text of the Sections and, therefore, do not form a part of the Sections.</p>

	<p>However, illustrations do form a part of the statute and are considered to be of relevance and value in construing the text of the sections.</p> <p>However, illustrations cannot have the effect of modifying the language of the section and can neither curtail nor expand the ambit of the section.</p>
<b>Proviso</b>	<p>The proviso to a section provides some special treatment to a part of the main section. The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment.</p> <p>It is a cardinal rule of interpretation that a proviso to a particular provision of a statute relates to the field which is covered by the main provision</p>
<b>Explanation</b>	<p>An Explanation is at times added to a section to explain the meaning of the text of the section. An Explanation may include something within the section or to exclude something from it</p> <p>An Explanation should normally be so read as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section.</p> <p>The following are objects of explanation:</p> <ul style="list-style-type: none"> <li>○ To provide an additional support to the object of the Act to make it meaningful and purposeful.</li> <li>○ Explain the meaning of the section.</li> <li>○ Clarify any ambiguity (if any) in the main enactment</li> <li>○ To include or exclude something from a section.</li> </ul>
<b>Schedule</b>	<p>The Schedules form part of an Act. Therefore, they must be read together with the Act for all purposes of construction.</p> <p>Where the Schedule contains the substantive provisions and prescribes certain conditions in addition to those laid down in a section, harmonious construction shall be adopted.</p> <p>If there appears to be any inconsistency between the schedule and the enactment, the enactment shall always prevail.</p>
<b>Read the statute as a whole</b>	<p>It is the elementary principle that construction of a statute is to be made of all its parts taken together and not of one part only.</p> <p>Lord Waston, speaking with regard to deeds had stated that: The deed must be read as a whole in order to ascertain the true meaning of its several clauses, and the words of each clause should be so interpreted as to bring them into harmony with other provisions – if that interpretation does no violence to the meaning of which they are naturally acceptable. And the same approach would apply with equal force with regard to Acts and Rules passed by the legislature.</p>

**Example: Section 55(1)** A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed:

Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders:

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**Example : Section 62(1):-** Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:

Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan by a special resolution passed by the company in general meeting.

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**Example: Section 5 (1)**The articles of a company shall contain the regulations for management of the company.

(2) The articles shall also contain such matters, as may be prescribed:

Provided that nothing prescribed in this sub-section shall be deemed to prevent a company from including such additional matters in its articles as may be considered necessary for its management.

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**Example: Section 2(55) "member", in relation to a company, means—**

**(i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;**

**(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;**

**(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;**

**Example: Section 2(15) "book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form**

**Example: Section 2(6):- "associate company", in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.**

### **External aids in Interpretation of Statute**

<b>Historical Setting</b>	<p>The history of the external circumstances which led to the enactment in question is of much significance in construing any enactment.</p> <p>We have, for this purpose, to take help from all those external or historical facts which are necessary in the understanding and comprehension of the subject matter and the scope and object of the enactment.</p> <p>Report of a committee which examined the bill and made recommendations to the legislature may be referred to decide the legislative intent. Statement of objects and</p>
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	reasons may also be used for limited purpose to understand the background and state of affairs which led to enactment of statute.
<b>Consolidating Statutes &amp; Previous Law</b>	The Preambles to many statutes contain expressions such as “An Act to consolidate” the previous law, etc. In such a case, the Courts may stick to the presumption that it is not intended to alter the law and therefore interpretation of old Act received in past may continue to apply to new Act.
<b>Earlier &amp; Later Acts and Analogous Acts:</b>	<p>Where a single section of one Act (say, Act ‘A’) is incorporated into another statute (say Act ‘B’), it must be read in the sense which it bore in the original Act from which it is taken consequently, it would be legitimate to refer to all the rest of Act ‘A’ to ascertain what that Section means, though one Section alone is incorporated in the new Act (Act ‘B’).</p> <p>If two Acts are to be read together then every part of each Act has to construed as if contained in one composite Act. But if there is some clear discrepancy then such a discrepancy may render it necessary to hold the later Act (in point of time) had modified the earlier one.</p> <p>Whenever a new act is replaced by earlier Act, the later Act sometimes furnishes a legislative interpretation of the earlier one only if, the provisions of the earlier Act are ambiguous and the Acts are on same lines.</p> <p>Where a part of an Act has been repealed, it loses its operative force. Nevertheless, such a repealed part of the Act may still be taken into account for construing the un-repealed part. This is so because it is part of the history of the new Act.</p>
<b>Dictionary Definitions</b>	<p>First we have to refer to the Act in question to find out if any particular word or expression is defined in it. Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood. However, in selecting one out of the several meanings of a word, we must always take into consideration the context in which it is used in the Act. It is the fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear.</p> <p>Further, judicial decisions laying down the meaning of words in construing statutes will have greater weight than the meaning furnished by dictionaries. However, for technical terms reference may be made to technical dictionaries.</p>
<b>Use of foreign decisions</b>	<p>While interpreting a statute, prime importance is always to be given to the language of the Indian statute.</p> <p>Where guidance can be obtained from Indian decisions, reference to foreign decisions may become unnecessary.</p> <p>Foreign decisions of countries following the</p> <ul style="list-style-type: none"> <li>○ same system of jurisprudence as ours and</li> <li>○ given on laws similar to ours</li> </ul> <p>can be legitimately used for construing our own Acts.</p>

### **Rules of interpretation of deeds and documents**

The first and foremost point that has to be borne in mind is that one has to find out what a reasonable man, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intendments, would understand by the words used in that deed or document. It is inexpedient to construe the terms of one deed by reference to the terms of another.

Further, it is well established that the same word cannot have two different meanings in the same document, unless the context compels the adoption of such a rule.

The Golden Rule is to ascertain the intention of the parties to the instrument after considering all the words in the document/deed concerned in their ordinary, natural sense. For this purpose, the relevant portions of the document have to be considered as a whole. The circumstances in which the particular words had been used have also to be taken into account.

Very often, the status and training of the parties using the words have also to be taken into account as the same words may be used by an ordinary person in one sense and by a trained person or a specialist in quite another special sense. It has also to be considered that very many words are used in more than one sense. It may happen that the same word understood in one sense will give effect to all the clauses in the deed while taken in another sense might render one or more of the clauses ineffective. In such a case the word should be understood in the former and not the latter sense.

It may also happen that there is a conflict between two or more clauses of the same document. An effort must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect to. If, however, it is not possible to give effect to all of them, then it is the earlier clause that will over-ride the latter one.

Similarly, if one part of the document is in conflict with another part, an attempt should always be made to read the two parts of the document harmoniously, if possible. If that is not possible, then the earlier part will prevail over the latter one which should, therefore, be disregarded.

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### Past Exam Questions from CA Final Examination

Q: Explain the meaning of the word 'Statute' and discuss the need for interpretation of Statutes.  
[CA (Final) May 2002]

Q: Explain the rule of 'Reasonable Interpretation' while interpreting the Statutes. [CA (Final) May 1999]

Q: Explain the Rule of "Reasonable construction under the interpretation of Statutes, Deeds etc".  
[CA (Final) Nov. 2010]

Q: Briefly explain the meaning and application of the rule of "Harmonious Construction" in the interpretation of statutes. [CA (Final) Nov. 2012]

Q: Explain the principles of 'Rule of Beneficial Interpretation'. [CA (Final) June 2009]

Q: Explain the rule of Beneficial Construction while interpreting the Statutes, quoting an example. [CA (Final) May 2000; May 1992]

Q: State Heydon's Rule of interpretation.

Q: What is Mischief Rule of interpretation? Explain the rule of Purposive Construction.

Q: "The word 'may' does not mean 'shall', yet the word 'may' under certain circumstances mean 'shall'. Discuss the statement in the context of the interpretation of Statutes and point out the importance of distinction between 'mandatory' and 'directory' provisions. [CA (Final) June 2009, Nov. 1994]

Q: Explain briefly the distinction between 'Mandatory' and 'Directory' provisions in a statute. How the Court deals with them differently? [CA (Final) Nov 2004]

Q: Explain briefly the distinction between 'mandatory' and 'directory' provisions in a Statute.  
[CA (Final) Nov. 2002]

Q: State the distinction between a mandatory provision and a directory provision. [CA (Final) May 2013]

Q: Explain the rule of 'Ejusdem Generis' with regard to interpretation of Statutes.  
[CA (Final) May 2005, Nov. 2002; Nov. 1999]

Q: Briefly discuss the Rule of 'ejusdem generis' as applied in the interpretation of statute.  
[CA (Final) Nov. 2009]

Q: Explain clearly the rule of 'Ejusdem Generis' as applicable in the interpretation of Statutes. Do the Courts have a discretionary power to apply the rules in a given situation? [CA (Final) Nov. 1997]

Q: Explain the Ejusdem Generis doctrine as applied in the interpretation of a Statute.  
[CA (Final) Nov. 1995]

Q: In what way is 'Usage' helpful in the interpretation of a Statute? [CA (Final) May 1996]

Q: "Associate words should be understood in common sense manner." Explain the statement in the light of rules of interpretation of statutes. [CA (Final) May 2011]

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Q: Explain the usefulness of following terms in interpreting / construing a statute:

- (i) Preamble
- (ii) Use of Foreign Decisions [CA (Final) Nov. 2011]

Q: Explain the importance of “Preamble” and “Proviso” being internal aids to interpretation.  
[CA (Final) Nov. 2011]

Q: Many a time a proviso is added to a section of the enactment. Explain the function of such a proviso while carrying out the interpretation. [CA (Final) Nov. 2009]

- (i) What is the effect of a proviso? Does it qualify the main provisions of an Enactment?
- (ii) Does an explanation added to a section widen the ambit of a section? Support your answer with an example from the Companies Act, 1956.
- (iii) What do you understand by the term ‘Preamble’ and how does it help in interpretation of a statute?  
[CA (Final) May 2007]

Q: Explain the effects of a proviso to a section in a statute. [CA (Final) May 2004]

Q: Explain the usefulness of ‘Heading and Title of a chapter in an Act and marginal notes of a Section’ as internal aids in interpreting the provisions of a Statute. [CA (Final) Nov. 2003]

Q: In what way are definitional sections helpful in the interpretation of a Statute? [CA (Final) May 1996]

Q: What is the effect of a proviso? Does it qualify the main provisions of an enactment? Does an explanation added to a section widen the ambit of the section? [CA (Final) Nov. 2002]

Q: How far are (i) title, (ii) preamble and (iii) marginal notes in an enactment helpful in interpreting any of the parts of an enactment? [CA (Final) May 2001]

Q: In what way can the following be of help in interpreting a Statute: (i) The ‘Preamble’ to an Act’ (ii) The ‘marginal notes’ appended to a section of the Act? [CA (Final) May 1998]

Q: While drafting the text of different sections in an Act, it is normally noticed that the section is supported by certain illustrations, provisos, explanation and schedules. Explain the relevance of supporting the text of the section by the above. [CA (Final) May 1997]

Q: How will you interpret the definitions in a Statute if the following words are used: (a) and includes, (b) means, (c) denotes? [CA (Final) May 1995]

Q: What are the rules to be followed in the interpretation of a proviso in a Statute?  
[CA (Final) May 1994]

Q: “The preamble to an Act discloses the primary intention of the legislature, but it cannot over-ride the provisions of the Act.” Explain. [CA (Final) Nov. 1993]

Q: Explain the internal/intrinsic aids in interpretation of Statutes. [CA (Final) Nov. 1992] Explain the significance of definition clause in a Statute. The definition of a word may be either restrictive or extensive..  
[CA (Final) May 2002]

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Q: Discuss the rules of interpretation of deeds and documents. [CA (Final) Nov. 2009]

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Q: How would you reconcile in case one part of the executed lease deed is in conflict with the other part? [CA (Final) May 1999]

Q: Gaurav Textile Company Limited has entered into a contract with a company. You are invited to read and interpret the document of contract. What rules of interpretation of deeds and documents would you apply while doing so? [CA (Final) May 2010] [ICAI SM Q]

Q: Explain the Rule of "Reasonable construction under the interpretation of Statutes, Deeds etc".  
[CA (Final) Nov. 2010]

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#### **Questions asked in CA Intermediate New Course**

Q1: Explain how 'Dictionary Definitions' can be of great help in interpreting/constructing on Act when the statute is ambiguous [Nov 2018]

Q2: Write short note on:

- I. Proviso
- II. Explanation with reference to interpretation of Statute , Deeds and Documents. [Nov 2018]

Q3: Differentiate Mandatory Provision from a Directory Provision. What factors decide whether a provision is directory or mandatory? [May 2018]

Q4: Explain 'Mischief Rule' for interpretation of statute. Also, give four matter it considers in constructing on Act [Nov 2018]

Q5: Define Grammatical Interpretation. What are the exceptions to grammatical interpretation? [May 2018]

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