

Chapter

General Clauses Act- Law Bomb

1. The General Clauses Act, 1897 (Act) was enacted on 11th march, 1897.
2. The general definitions provided are applicable to all Central Acts.
3. Some definitions use the word "means". Such definitions are exhaustive definitions and exactly define the term Eg company definition.
4. Some definitions use the word "include". Such definitions do not define the word but are inclusive in nature Eg Body corporate definition.
5. We may also find a word being defined as 'means and includes' such and such, here again the definition would be exhaustive eg Fraud - Indian Contract Act.
6. The word 'shall' is used to raise a presumption of something which is mandatory or imperative
7. while the word 'may' is used to connote something which is not mandatory but is only directory or enabling
8. "Act" [Section 3(2)]: 'Act', used with reference to an offense or a civil wrong, shall include a series of Act, and words which refer to acts done extend also to illegal omission.
9. "Affidavit" [Section 3(3)]: 'Affidavit' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing. Affidavit is a written statement confirmed by Oath or affirmation for use as evidence in Court or before any authority
10. "Document" [Section 3(18)]: 'Document' shall include any matter written, expressed or described upon any substance by means of letters, figure, marks. or by more than one of those means which is intended to be used or which may be used, for the purpose or record that matter
11. "Financial Year" [Section 3(21)]: Financial year shall mean the year commencing on the first day of April.

The term **Year** has been defined under Section 3(66) *as a year reckoned according to the British calendar.* Thus, as per General Clauses Act,

Year means calendar year which starts from Jan to December.

- ★ 12. "Good Faith" [Section 3(22)]: 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;

The question of good faith under the General Clauses Act, 1897 is one of fact. It is to determine with reference to the facts and circumstances of each case. In *Maung Aung Pu Vs. Maung Si Maung*, The definition of good faith as is generally understood in the civil law and which may be taken as a practical guide in understanding the expression in the contract Act is that nothing is said to be done in good faith which is done without due care and attention as is expected with a man of ordinary prudence. An honest purchase made carelessly without making proper enquiries cannot be said to have been made in good faith so as to convey good title.

13. "Government" [Section 3(23)]: 'Government' or 'the Government' shall include both the Central Government and State Government

- ★ 14. "Immovable Property" [Section 3(26)]:

'Immovable Property' shall include:

- (i) Land,
- (ii) Benefit to arise out of land, and
- (iii) ← Things attached to the Earth, or
- (iv) Permanently fastened to anything attached to the earth

Whether Following is immovable property or not.

1	Trees	yes.
2	Timber	NO.
3	An agreement to convey forest produce like tendu leaves, timber, bamboos etc	yes.
4	Right of way to access from one place to another	yes.
5	right to drain of water	NO.
6	Any machinery fixed to the soil	yes.
7	right to catch or carry fish	yes.
8	Cut-trees / felled trees- Plant	NO

15. "Coming into operation of enactment" [Section 5]: Where any Central Act has not specifically mentioned a particular date to come into force, it shall be implemented on the day on which it receives the assent of the Governor General in case of a Central Acts made before the commencement of the Indian Constitution and/or, of the President in case of an Act of Parliament. *If date of Rule not mentioned then it will come into force when published in O.G.*

"Effect of Repeal" [Section 6]: the repeal shall not:

- R a. Revive anything not enforced or prevailed during the period at which repeal is effected or;
- R b. Affect any Rights, obligation, liability or m² privilege acquired, accrued or incurred under any enactment so repealed; or
- P c. Affect any Penalty, punishment or Forfeiture incurred in respect of any offence committed against any enactment so repealed; or
- I d. Affect any Investigation, litigation or remedy with regard to such claim, privilege, debt or responsibility or any inquiry, litigation or remedy may be initiated, continued or insisted.

16. "Commencement and termination of time" [Section 9]: In any legislation or regulation, 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 / upto

17. "Computation of time" [Section 10]: Where by any legislation or regulation, 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 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.

18. "Measurement of Distances" [Section 11]: In the measurement of any distance, unless a different intention appears, be measured in a straight line on a horizontal plane

"Gender and number" [Section 13]: In all legislations and regulations, unless there is anything repugnant in the subject or context-

19. ~~Words importing the~~ masculine gender shall be taken to include female, and

20. Words in singular shall include the plural and vice versa.

21. "Power to appoint to include power to suspend or dismiss."
[Section 16]: 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 any other authority in exercise of that power

22. "Official Chiefs and subordinates" [Section 19]: A law relative to the chief or superior of an office shall apply to the sub-ordinate or deputies lawfully performing the duties of that office

23. "Power to issue to include power to add to, amend, vary or rescind - notifications, orders, rules or bye-laws"
[Section 21]:

24. "Recovery of fines" [Section 25]: Section 63 to 70 of the Indian 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-laws, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

25. "Provision as to offence punishable under two or more enactments" [Section 26]: 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 punished twice for the same offence

26. "Meaning of Service by post" [Section 27]: Where any legislation or regulation requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by:

- a. Properly Addressed.
- b. Pre-paid, and
- c. Posting by Registered Post.