

The General Clause Act 1897

Background Purpose

The Companies Act 2013

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Sec 2 - Definitional Clause

Specific Clause

The LLP Act 2008

Sec 2 Definitional Clause.

Specific Clause

Words which are used in an Act but not defined in Such Act. Definition of which word/term shall be derived from

Co. Act 2013

Sec 96 AGM

Year — Sec 2 of Co Act

2013 - not defined

Derive Sec 3(66) of ~~CGA~~ CGA, 1897

Sec 7 - Inc

before - declaration

affidavit

just for example

The Contract Act 1872 + SGA + Pship Act + NI

↓
Good faith

Derive Sec 3(22) of GCA 1897

General clauses Act = Law of all laws

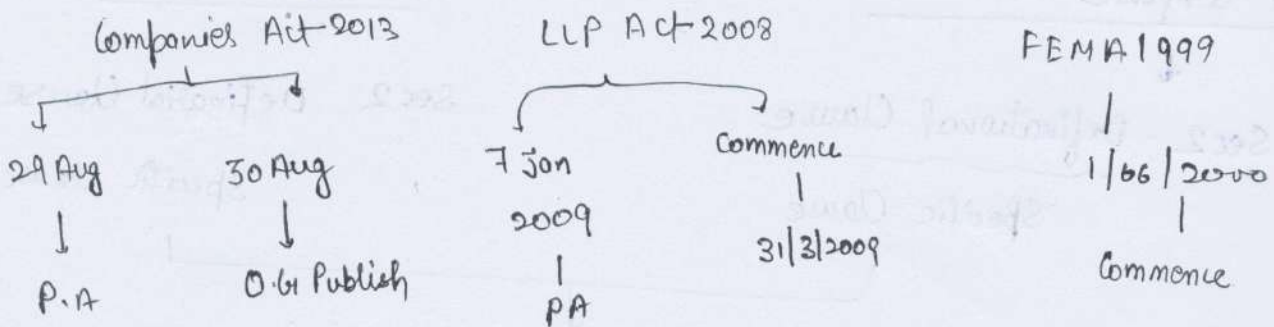
↓
Applicability → In all Central Act, Rules and Regulation

Purpose: To shorten the language

Section 3(20) father includes — adoptive father.

Section 5: Coming into operation of enactment.

Commencement.



Central Act

Not expressed to come into operation into particular day

It shall come into operation on the day on which it receives the assent of Governor general.

↓
If Central Act made before Commencement of Constitution.

and

In any other case assent of President

Equation: No Commencement date + date of assent shall be Commencement date.

Special notes

AK Roy v/s Union of India

No court can issue a mandamus (legal order to Public authority to fulfill its obligation) to compel the Government to provide date of operation on a Particular day.

Attenu

Altemeier Rein v/s UOI

If sufficient time is passed since an act or any of its provision has been passed, the Court through a writ (formal written order) may direct govt. to decide the operation date of such Act or provision.

Uttar Pradesh v/s Mahesh Narain

Rules shall come into operation on the date when it was published and not on the date of preparation.

↓
official
gazettee

No cognizance of fraction of day, - It will come into force when the clock has struck 12:00 on the night.

Section 6: Effect of Repeal

① If any Central Act or regulation is made after the commencement of GCA, 1897 and such Central Act repeals any enactment

② Then unless a different intention appears, the repeal shall not:-

(i) Revive anything not in force

(ii) affect any previous operations

(iii) affect any rights and liability

(iv) affect any penalty and punishment

(v) affect any inquiry, litigation or remedy

of Previous
Enactment.

Refer example pg: 13.9 of Concept book.

Repeal v/s Omission

→ Refer Page 13.8 of Concept book.

Kolhapur Janesugari workers Ud. v. Union of India

Supreme Court held that Sec 6 only apply to repeal and not to omissions, and applies to repeal is of Central act of omission not of the rule.

Section 6A: Repeal of Act. Making textual Amendment in Act or Regulation.

(Refr example Pg: 13.10 of Concept book.)

Refr Pg 13.9 of Concept book.

Section 7: Revival of Repealed Enactment (Sec 7)

If any Central Act or regulation is made after the Commencement of GCA 1997 and if such Central aims to revive any repealed provision

for the purpose of reviving the repealed provisions, such Central Act must state that purpose.

Refr examp. 13.10

Section 8: construction of References to repealed enactment.

① When any Central Act made after the Commencement of this Act (GCA 1997) and such Central Act repeals any previous enactment (1956)

② Any reference of the provision of the repealed enactment (1956) in any other enactment (POBA 1965) or in any other instrument shall be read with the corresponding provisions so re-enacted. (2013)

Refr example of Payment of Bonus Act 1965 POBA

Pg: 13.11

Section 9: Commencement and termination of time

In any Central Act or regulation made after the Commencement of this Act it shall be sufficient for the purpose of excluding any day for a 'series of day' to use the word 'from' and for the purpose of 'including' 'last day' use the word 'to'.

Computation of time. Sec 10

- ① Where by any Central Act or Regulation made after the Commencement of this Act (GCA 1897)
- ② In Such Act, Any act or proceeding is directed or allowed to be done in any court or office in any particular time or prescribed time (on a certain day or within a Prescribed period)
- ③ If the Court or office is closed on such date
- ④ It shall be sufficient if such Act or proceeding is ~~uncertain~~ undertaken next day on which Court or office is taken

Note: If this Situation falls under the perview of the Indian Limitation Act, the rule of Section 10 of the GCA 1897, would not apply. and the provision of Limitation Act would govern computation of time.

Section 11 Measurement of Distance

[↪ Refer Page no 13.13 of Concept book]

Section 12: Duty to be taken Prior to Enactment

↪ Refer Page no 13.13 of Concept book

Section 13: Gender and Number

Section 14: Powers conferred to be exerciseable from time to time

Ref. Page 13.14 CB.

Section 15: Power to appoint to include Power to appoint Ex-officio

A person who is already holding a public office.

- ① Whereby any Central Act, A power to appoint any Person is conferred (Given) then any such appointment may be made either by name or by virtue of office.
- ② Such appointment can be made when the manner is not otherwise expressly provided

eg: Refr example "The Education Act" - Pg: 13.15

Section 16: Power to Appoint to include power to Suspend or Dismiss

① Whereby any Central Act a power to make any appointment is conferred (given) then the Authority having the power to make the appointment shall also have a power to suspend or dismiss.

② Section 16 does not apply if different intention appears in such Central Act.

eg: Under Sec 139 CAG (Authority) have the power to appoint auditor of Govt Co. As per Sec 16 such authority (CAG) shall also have power to Suspend or dismiss such appointment.

Construction

Section 20 of notification etc issued under Enactments

Section 20: construction of notification etc issued under Enactment

Arjun Chhabra (CS LLB LLM) 62 62 62 143 8

Where by Any Central Act a power to issue any notification is conferred then the expression used in the notification shall unless there is anything repugnant inconsistent have the same respective meaning as provided in the Act.

[Refer ex of relative Pg 15-17 to 13-18]

Section 21: Power to issue, to include power to add to, Amend, Vary or Rescind notification, orders, Rules, or by laws.

[

Where by any central Act or regulation a power to issue

(i) notification

(ii) orders

(iii) rules

(iv) by laws

is conferred then that power includes a power.

(i) to add to eg (Rule 2A)

(iv) Rescind (withdrawal of notification)

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(i) to add to eg (Rule 2A)

(ii) Amend (2BS) & 4 or 4000

(iii) Vary

(iv) Rescind (withdrawal of notification)

(v) order, Rule, by laws so issued.

[Section 22: Making of rule and bye laws and issuing of order b/w passing and Commencement of Enactment]

or
Alternate title: Rule shall not take effect till Commencement of the Act.

① Where by any Central Act which is not to come into force immediately a Power is conferred to make rule with respect to:

- ① the establishment of any Court.
 - ② the person by whom
 - ③ the time when
 - ④ the place where
 - ⑤ the manner in which
 - ⑥ the fees
- } Anything is to be done under the Act or regulation

② Then that power may be exercise at any time after the passing of the Act but rules shall not take effect till the Commencement of the Act or regulation

[Refer example Page 13.13]

*** Section 27: Meaning of Service by post

Where any legislation or regulation requires any document to be served by Post, then unless different intention appears (13(2) of LIP) The services shall be deemed to be effected by properly addressing

- ② Pre-paying
- ③ Posting by registered Post

Once the letter is posted as per this conditions, the law presumes that the service of notice has been effected at the time when the letter would have ordinarily been delivered by the postal system.

After a reasonable time.

United Commercial Bank v. Ramesh Saini Malhotra / Jagdish Singh v/s Nattu Singh / Smt Vandana Gulati v. Gurneet Singh, alias Mangal Singh.

In this case, the statutory rules required the notice to be sent by registered post with acknowledgment due (RPAD), but the bank sent it by registered post only.

In this case Sender cannot claim the presumption that the notice was properly served.

In this case notice is sent by Registered Post, but receipts (tenant) refused to accept it. Legally, this refusal will be treated as if the tenant has been properly served. And the landlord can proceed with legal actions based on the presumption of services.

Here the notice was sent by registered Post to the proper address of the recipients.

The postal endorsement indicated that the letter was either not claimed or the recipient was not met.

The law presumes the notice was ~~served~~ served.

The recipient would need to prove otherwise, such as showing they never received the delivery attempt.

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Section 28: Citation of Enactment

In any Central Act, reference is given of any other Act. Such reference may be cited by reference to

- (i) the title, or
- (ii) short title, or
- (iii) No. & year of Act

[Sec 2(1)(d) of LLP]

Any provision in an enactment may be cited by reference to the sections or sub section [Sec 2(1)(d) of LLP] of the enactment (2013) in which the provision is contained.

Section 24: Saving for previous enactment, Rules and bye-laws

The provision of this Act (1897) which is made for the Construction (interpretation) of such Act which is made after the Commencement of this Act (1897) shall not affect the interpretation of the Act made before the Commencement of this Act.

Although the Act made before the Commencement of this Act is continued or amended after the Commencement of this Act.

Section 25: Recovery of fines.

All fines imposed under any Act shall be recovered in the manner provided ~~u/s 63(2)~~ u/s 63 (to) (70) Indian Penal Code and provision of Code of Criminal Procedure unless the Act contains any express provisions of recovery of fines.

Section 26:

↳ No person shall be punishable twice for the same offence

Where an Act or omission constitutes an offence under two or more enactments, then the offender

(i) shall be liable to be prosecuted (trial or legal proceeding of court) and punished under either or any of those enactments.

(2) But shall not be liable to be punished for the same offence.

Section 3(26): Immovable property:

↳ Refer Page: 13.4

Immovable Property

↓
Shall
include

- (a) Land
- (b) benefits to Arise out of Land
 - (i) Natural water resource
 - (ii) River or a Spring
 - (iii) Right to use water for irrigation
 - (iv) As per Supreme Court tree must be regarded as immovable property.
[Shantabai v. State of Bombay]
 - (v) Agreement to Convey forest produce
eg: tendu leaves, timber, bamboos
 - (vi) Soil for making bricks
 - (vii) Right to build and occupy the land for business purpose
 - (viii) Right to grow new trees and to get leaves from trees that grow in further
 - (ix) Right to catch fish.
 - (x) Right of way to access from one place to another may come within the definition of immovable Property. Machinery fixed to soil Standing crops

↓
Exclude

- (a) Right to Drain of water

Substitution of functionaries

official title wala insaan available nahi hai to uske duty kon perform kariega.

- In Any Central Act, Any law is applicable to a particular person or to other persons for the time being executing the functions

Provision: It shall be sufficient to mentioned the official title of the particular person at present executing the functions or in his absence that of the officer by whom the functions are commonly executed.

[Refer example 13.15 to 13.16]

Successor

official title/specific position hold karne wala insaan agar wo title chorta hai to uski jagah duty kon perform kariega.

- In Any Central Act, Any law is applicable to a particular functionaries and such law is also applicable of the functionaries

- It shall be sufficient to express that such law is applicable to present functionary and also to its successor in future.

Official Chief and

To duty superior ki ha sub-ordinate ki bhi hai

In Any Central Act - to the Chief or Superior applicable to its sub-ordinate

Substitution of functionaries

Official title wala insaan available nahi hai to uske duty kon perform kariega.

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It shall be sufficient to mentioned the official title of the particular person at present executing the functions or in his absence that of the officer by whom the functions are commonly executed.

Refer example 13.15 to 13.16]

Successor

Official title/specific position hold karne wala insaan agar wo title chorta hai to uski jagah duty kon perform kariega.

In Any Central Act, Any law is applicable to a Particular functionaries and such law is also applicable of the functionaries

It shall be sufficient to express that such law is applicable to present functionary and also to its successor in future.

Official Chief and Subordinate

To duty Superior ki hai, wo duty Sub-ordinate ki bhi hai

In Any Central Act Any law is applicable to the Chief or Superior Such law is also applicable to its Sub-ordinate.

Section 23: Previous publication

① Whereby any Central Act a power to make rule is expressed to be given Subject to the Condition of the rules being made after previous publication. Then the following Provision shall apply.

(a) Draft: The Authority having powers to make rules shall, before making Such rule publish a draft of the Proposed rule for the person likely to be affected.

(b) Manner of Publication: ① In a manner as Authority Deems sufficient
② or in such manner as govt prescribes.
③

(c) Date: There shall be published with the draft a notice specifying a date on or after which the draft will taken into consideration.

(d) Objection/ Suggestion: The Authority having power to make rules with the Sanction, approval with another authority, That other authority shall also consider any objection or suggestion which maybe received by the authority having Powers to make rules.

(e) Proof: The publication in the official gazettee of a rule made in exercise of a power shall be conclusive evidence that the rule has been duly made.

Section 24: Continuing of order, etc, issued under enactment Repealed and Re-enacted.

When any ⁽²⁰¹³⁾ Central Act after the Commencement of this Act (1997) Repealed (1956) and re-enacted then unless it is otherwise expressly Provided and rule issued under the repealed Act (1956) shall Continue in force except in so far as it is not inconsistent with the provisions re-enacted.

Definition (Relevant for exam) - Refer Page no 13.3.

- Sec- 3(26) Immovable Property
- Sec- 3(22) Good faith → Refer Pg: 13.3
- Sec- 3(24) Financial year → Refer Pg: 13.3
- Sec- 3(3) Affidavit
- Sec- 3(4) Central Act
- Sec- 3(18) Document
- Sec- 3(37) Oath
- Sec- 3(51) Rule
- Sec- 3(62) Swear
- Sec- 3(66) Year

* Section 3(18) Document

Document shall include

- (a) any matter written
- (b) Expressed or described
- (c) upon any substance (Paper, tissue paper napkin)
- (d) By means of letters, figures or marks
- (e) for the purpose of recording that matter.

* Affidavit 3(3)

- shall include affirmation and declaration in the case of person by law allowed to affirm or declare instead of swearing.

* Oath 3(3A)

shall include affirmation and declaration in the case of person by law allowed to affirm or declare instead of swearing.

* Swearing 3(62)

↓

Same As oath

3(5A)

time b/w
Practically speaking there is very thin
oath and affidavit.

- ① Practically, affidavit is always in writing
- ② oath is usually a oral statement.

* Central Act 3(7)

(a) Act of Parliament

(b) Includes:-

- (i) Act of Dominion legislature passed before the Commencement of Constitution.
- (ii) Act made by governor general before such Commencement.

Rule 3(5)

Rule shall mean Rule made in exercise of a power conferred by any enactment and shall include a regulation.

eg: Sec 469 of CrP Act 2013 empower Cb to make rules.

* Central Government 3(8)

↳ Refer Page no 13.2 or 13.3