

02/05/2025

Other Laws

The General Clauses Act, 1897

- It came into force or enacted on 11th March, 1897.
- It consolidate and extend the General Clauses Act, 1868 and 1827.
- It is also known as laws of all laws.
- It provide general definition applicable to all central Acts and Regulations.

Object:

- To Shorten the language of Central Act.
- To provide uniformity of expression in Central Act.

Note:

- ① GCA does not apply in state laws.
- ② As per Article 367, GCA can also used for the interpretation of the constitution.

GCA is divided into two parts

Common

Definition

Rule of Specific Interpretation.



India is divided into 3 parts based on time

	British India	Dominion of India	Independent India
	1793 to 14 th August 1947	15 th August, 1947 - 25 th Jan, 1950	26 th Jan, 1950 to till now
		Semi-Independent India	Republic of India
Law Making Body	G.G.C. - Governor General in Council	Dominion Legislative (G.G.C)	Act of Parliament President
	The Charter Act of 1793 extended the British East India Co. rule & trade monopoly in India.	15/8/1947 → 20/06/1948 Lord Mount Batten 21/06/1948 → 25/1/1950 Indian G.G.C Dr. C. Raja Gopalachari	

Section 3: Definitions

- Act (act) - doing**

Act used with reference to an offences or a civil wrong (tort). Shall include a series of acts & extend also to illegal omission.

Offence → An act forbidden or punishable by law.

Civil wrong → Injury to a person or his property.

Illegal Omission → Tax Evasion.
- Affidavit**
(written oath in front of court)

Affidavit shall include affirmation & declarations in case of persons allowed affirming or declaring instead of swearing.

Affiant swear in front of judge/magistrate ✓
Swear " " family X

Perjury: Not allowed to make any affidavit.
→ the act of telling lie in court of law.



3. Central Act

It means an Act of Parliament & shall include
 (a) An act of the dominion legislative before commencement of construction, and
 (b) An act made before such commencement by G.G.C. (Governor General in Council)

4. Central Government

India was divided into 4 parts for the purpose of Governance.

Part A	Part B	Part C	Part D
Governor's Provinces ruled by Governor appointed by President.	Princely States governed by Raj Pramukh.	Chief Commissioner provinces & some princely states governed by Chief Commissioner (CC) appointed by President.	Andaman & Nicobar Island administered by LG (Lieutenant Governor) appointed by President.
Governor $\Rightarrow$ P.G. = Principal Govt.			

• Central govt. from a legislative perspective means a person under whose authority, the law is enacted.
 C.G. means.

(A) Before commencement of constitution

• G.G.C. include

(i) In relation to govt. of provinces = Principal govt.

(ii) In relation to chief commissioner provinces = Chief Commissioner

Before 26th January, 1950

C.G. = G.G.C. + P.G. + C.C.

(B) After commencement of constitution

• President & include

(i) Certain function entrusted to State = State Govt.

(ii) In relation to Part-C State = Chief Commissioner.

(iii) In relation to union territory (UT) - LG now a days administrator.

On or after 26th Jan, 1950
 C.G. = President + S.G. + C.C. for Part-C + administrator for UT's



5. Commencement

It is used with reference to the day on which an Act or regulation comes into force.

- (i) It is usually mentioned in Section 1 of the Statute.
- (ii) It may be notified in official gazette (NDG).
- (iii) If neither statute nor NDG specifies any commencement date, the enactment date = Commencement date.

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6. Document

It shall include

- (i) Any matter written, expressed, or described upon any substance (WED)
- (ii) By means of letter or figure or by more than one marks, symbol (FLM)
- (iii) Which is intended to be used or which may be used for the purpose of recording that manner.

7. Enactment

↓
Law

↓
Statute

↓
Act

Enactment shall include

- (a) A regulation &
- (b) Any regulation of BMB code & (Bombay, Madras & Bengal)
- (c) Shall also include any provisions contained in any Act or regulations.
- Enactment could include any Act made by union (central) parliament & state legislature.

**

8. Financial Year

Financial year means a year commencing on the first day of April i.e. 01 April to 31 March of next year.

- When only year is given we should understand it as a calendar year which extends from Jan to Dec.

**

9. Good Faith
Sec. 3(22)

A thing shall be deemed to be done in 'good faith' where its impact done honestly whether its done negligently or not.

Diligence in
Opposite of
Negligence.

Statute / Example

Good Faith

①. GICA, 1897

• Negotiable Instrument
Act, 1881.

Good Faith = Only Honesty

②. The Indian Contract Act,
1872

• The Sales of Goods Act

Good Faith = Honesty
+
Diligence

Case Law: Maung Aung PV v/s Maung Si Maung

• As a man of ordinary prudence on honest purchase made
carelessly without making proper enquiries cannot be
said to have been made in good faith so as to convey
good title.

10. Government

"Government" or The Govt. shall include both central
govt. & state govt.:

11. Govt. Securities

• Government securities shall means

- 1) Securities of central govt. or
- 2) Securities of state govt.

• But shall not include securities of govt. of any
Part B state, in any Act or regulation made before
commencement of constitution.

12. Immovable
Property

(Sec. 3(26))

Immovable property shall include:

(i) Land.

(ii) Benefits to arise out of land.

(iii) Things attached to Earth.

(iv) Things permanently fastened to anything attached to the
Earth.



Case Law: Shantabai v/s State of Bombay

fact: It is pointed out that trees must be regarded as immovable property because they are rooted to Earth.

However, timber are movable property.

- Right of way to access from one place to another (i.e. road) is also immovable property.
- Tree (benefits arising out of land). ✓
- Right to drain water. ✗
- Fixed machinery. ✓
- Standing crop. ✓
- Right to catch fish from pond (benefit arising out of land) → License → Profit a prendre ✓

Case Law: Ananda Behera v/s State of Orissa.

13. Imprisonment

It shall mean imprisonment of either description as defined in IPC, 1860 either means simple or rigorous.
Note: Previously transportation to Andaman & Nicobar was also imprisonment, Now it is abolished.

* 14. Indian Law

Indian Law shall mean any:

- A = Act
- R = Regulation
- O = Ordinance
- R = Rules
- O = Order
- B = By laws
- O = Other Instruments

and it includes all the laws which was in force before constitution but does not include those law which were

passed in parliament of United Kingdom

Eg. Suppose you are in 1897

↓
Indian Parliament

↓
Law Passed

↓
Indian Law ✓

↓
U.K Parliament

↓
Law Passed

↓
Indian Law X

15. Month

month shall mean a month reckoned (counted) according to British Calendar i.e. Jan to Dec.

16. Movable Property

It shall mean property of every description except immovable property.

Eg. Shares, Electricity, Water, Debts.

17. Oath (Oral)

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

18. Offences

It shall mean any act or omission made punishable by any law for the time being in force.

* 19. Official Gazette

Official Gazette or Gazette shall mean
(i) The Gazette of India, or
(ii) The Official Gazette of State.

20. Person

Person shall include

(i) Any company or Association or
(ii) Body of individual
whether incorporated or not.



- | | | |
|-----|-------------|--|
| 21. | Registered | Registered means registered under Registration Act, 1908. |
| 22. | Rule | <ul style="list-style-type: none">• Sec 469 confers power on CO to make rules.• Rules are Indian laws made by govt. of both description. |
| 23. | Schedule | Schedule shall mean a ^{Schedule} section to the Act or Regulation in which words occur. |
| 24. | Section | Section shall mean a section to the Act or Regulation in which words occur. |
| 25. | Sub-Section | Sub-Section shall mean a Sub-Section to the Act or regulation in which words occur. |
| 26. | Swear | Swear with its grammatical variation (sworn) & cognate (similar) expression shall include affirming & declaring in case of person by law allowed to affirm or declare instead of swearing. |
| 27. | Writing | Expression referring to writing shall include printing, lithography, Photography & other modes of representing or reproducing words in a visible form. |
| 28. | Year | Year shall mean a year reckoned according to British Calendar. |

Section 4: Application to foregoing definitions to previous enactment.

The following definitions given in Act No. 1897 shall apply to

- (i) All Central Acts made after the 3rd Jan, 1888.
- (ii) All regulations made on or after the 1st Jan, 1887.

- Affidavit
- Immovable Property
- Movable Property
- Imprisonment
- Month
- Person
- Oath
- Section
- Year

They have retrospective effect.

- Effect from back date.

1897 All Central Act & Regulation → 1897

- Commencement
- Offense
- Writing
- Financial Year
- Registered
- Schedule
- Sub-Section

Section 4A: These 6 definitions will be applicable to central as well as State laws.

- (i) Central Act
- (ii) Gazette or Official Gazette
- (iii) Central Govt.
- (iv) Government
- (v) Govt. Securities
- (vi) Indian Law

In any Indian Law Revenue a tax shall be considered as ref. to
(a) Consolidated Fund of India, or
(b) Consolidated Fund of State

PART-B Specific rule of Interpretation

	Section
① The General Rule of Construction	5 to 13
② Power & Functionaries	14 to 19
③ Subordinate Legislation	20 to 24
④ Miscellaneous Provisions	25 to 30

① (Section 5 to 13): The General Rule of Construction

Section 5 Coming into operation of enactment

- 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 received the assent / consent of
 - G & C before commencement of constitution.
 - President in case of an Act of Parliament.

Section 6 Effect of Repeal

The Companies Act, 2013 ^{Repeal} → The Companies Act, 1956 ^{Repeal} → The Companies Act, 1913.

Repeal mean 'complete obliteration' of the old statute as if it never existed.

- Repeal cannot revive the earlier (ancient law) i.e. The Companies Act, 1913, which is not in force.
- Repeal of The Companies Act, 1956 cannot revive the Companies Act, 1913.
- *** Repeal shall not affect unless another purpose exist
 - Prior Operation of old law

Example: Companies incorporated under The Companies Act, 1956 still are in operation.

- (ii) Any right, privilege, obligation, liability incurred under old law.
- (iii) Any punishment or penalty imposed under old law.
- (iv) Any pending inquiry / investigation / litigation under old law.

Case Laws:

(i) Navranpura Gam Dharmoda Milk + Trust v/s Ramtiji Ramaji

- Repeal of Provision is in distinction from deletion of provision.
- Difference between Repeal & Omission / deletion.

Repeal

1. Repeal Obliterates the statute as if it never existed.
2. Retrospective Effect.
3. Section 6 applies on repeal.

Deletion

1. Omission / deletion doesn't have the effect of wiping the enactment from annals (records) of legal history.
2. Prospective Effect
3. Sec. 6 doesn't apply on Omission / Deletion.

(ii) Kolkapur Lanerugar works Ltd. v/s Union of India

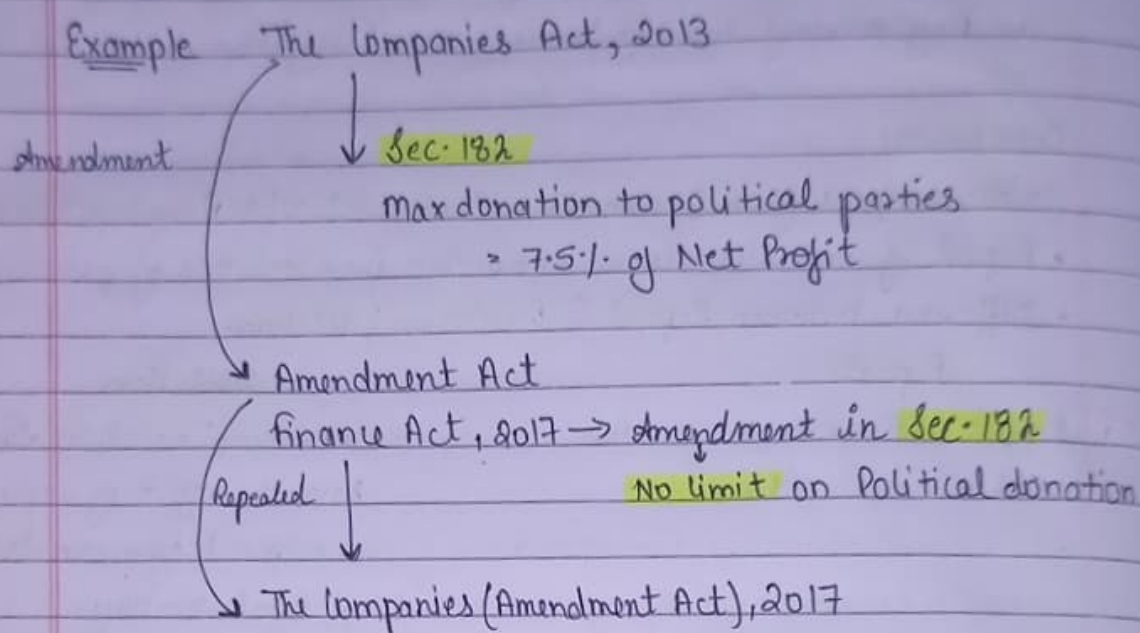
- Section 6 applies only to repeal not to omission.

(iii) State of U.P v/s Harendra Pal Singh

- Decision is, whenever an act is repealed it must be considered as if it has never existed. Object of repeal is to obliterate the act from statutory books.



Section 6A Where a central Act repeal an 'Amendment Act' that brought amendment to another central Act, then despite of such repeal of the Amendment Act, the amendment brought by it will continue to have effect, unless diff. intention appears.



- Section 7**
- Revival of **Repeated enactment**
 - If new central Act or regulation, wholly or partially revives an old law (Repeated enactment) then it should clearly state its purpose in its preamble / title.
 - Title / Preamble = 'An Act to **revive** the repeated enactment'

Section 8 Construction of reference to **repeated enactment**

- If a central act makes a reference of **repeated enactment** (old law) we should read it as per provision re-enacted (New law).

Eg. **Sec. 115JB of Income Tax Act, 1961**

↓ Makes References

Book Profit computed as per
The Companies Act, 1956 → **Repeated Enactment**
(Old Law)

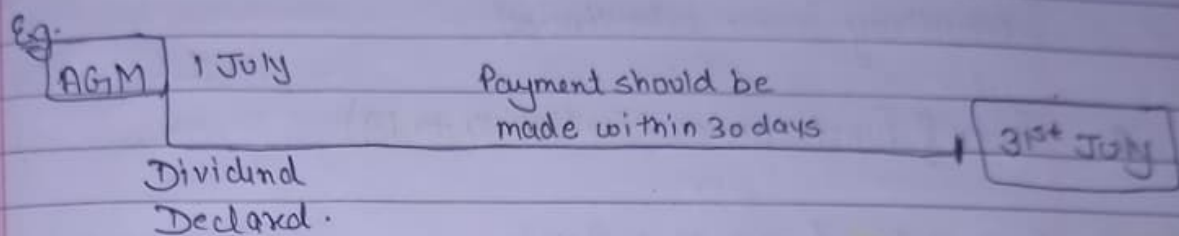
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Book Profit computed as per
The Companies Act, 2013 → **Provision Re-enacted**
(New Law)

Section 9 Commencement & Termination of time

- While calculating the no. of days in a series of a date (i.e.) from DD MM YY (1st July) to DD MM YY (31st July)

Exclude the 1st date of series & include the last date of series.



Section 10 Computation of time

- Where by any legislation or regulation, Any act or proceeding is directed to be done or taken in court or office on a certain day or within a prescribed period then if a court or office is closed on that day or last day of prescribed period the act or proceeding shall be considered as done on next day afterward on which the court or office is open.

Section 11 Measurement of distance

The distance shall be measured in a straight line on a horizontal plane.

Section 12 Duty to be taken Pro rata in enactment.

- Pro rata is a latin term used to describe a proportionate allocation.
- When any duty of custom or excise is leviable on any good or merchandise then a like duty is leviable according to the same rate on any greater or less quantity.

**

Section 13 Gender & Number

- In all legislations & regulation unless there is anything repugnant to the subject or context.
- Words using the **masculine** gender (such as he, him) shall be taken to include female but **not vice-versa**.
- This provision is applicable only to **humans** not to the animals.
- Words in singular shall include the plural & vice-versa. (e.g. subsidiary means subsidiaries)

**

2. Power & Functionaries (Section 14 to 19)

Section 14 Power conferred upon an authority

- If any power is conferred upon an authority by central law then that power can be exercised by it from time to time as occasion requires.

Ex: Sec 463 of The Companies Act, 2013 confers power on MCA i.e. CCI to make rules. This power can be exercised from time to time.

Section 15 Power to appoint include power to appoint ex-officio

- If a central Act confers power on an authority to make appointment in government position then the authority can appoint by
 - Name (fresh appointment)
 - By virtue of existing office (ex-officio appointment)

Section 16 Power to appoint include power to **suspend** or **dismiss**

- Power to appoint under a central Act include the power to
 - Suspend** the functionary.
 - Dismiss** the functionary.

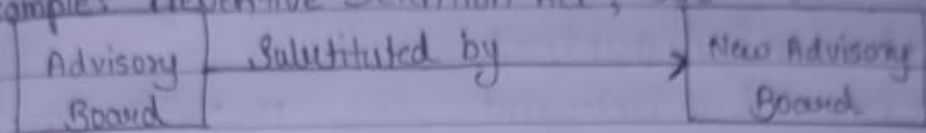
Ex- Chief of India has power to appoint officers of high court by virtue of constitution.

This power include power to suspend / dismiss.

Section 17 Substitution of functionaries

- When one functionary is substituted by another new functionary then all the powers & duties vested to old functionary will be automatically given to the new functionary.

Example: Preventive Detention Act, 1950



Passed certain order for detention of any person.

- considers & act upon the
- Detention order passed by earlier advisory board.

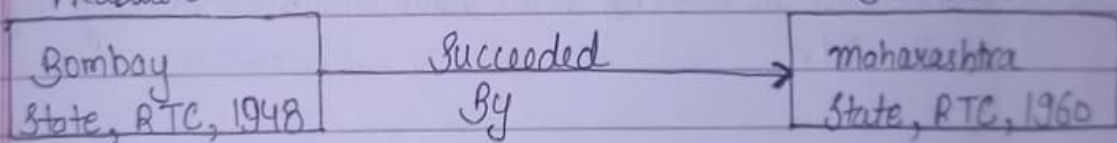
Section 18 Successor

- For the purpose of indicating the application of law (power-duties) upon the successor of the functionary express its relation to that functionary.

Ex - RTC (Road transport Corporation) Act, 1950

Predecessor

Successor

Section 19 Official chief & subordinate

- When a subordinate is performing the duty of a chief in his absence (for the time being) then the law applicable to chief shall also apply to subordinate.

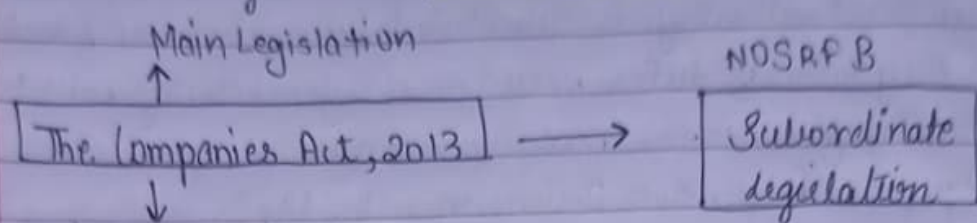
Example

Chief
President
↓
on sick leave
for 2 months

Subordinate
Vice-President
↓
shall become active
president for 2 M.



③ Subordinate legislation (Section 20-24)



- Passed in Parliament
- Amended in Parliament

N = Notification

O = Order

S = Scheme

R = Rules

F = Forms

B = Bye-laws

- Issued by MCA or regulatory bodies.
- Amended by MCA.

Section 20. Construction of order etc., issued under enactment

- Words used in NOSRFB shall have the same meaning as given in the Act.

Ex.

Shelf prospectus used in companies rule shall have same meaning as given in Sec 31 of The Companies Act, 2013.

Section 21. If an authority has the power to issue NOSRFB that it also has power Add, Vary, Amend, Rescind such NOSRFB.

Section 22. Maximum Section of The Companies Act, 2013 applied from 1st April, 2014

- Where a statute has been enacted but not yet commenced, then although the authority may prepare the subordinate legislation (NOSRFB) yet such NOSRFB cannot come into force until the statute comes into force.

Section 23 Publication for public comment or provisions applicable to making of rules & Bye laws after previous publication of Draft Rules.

- ① Publish the proposed draft rule / Bye laws.
- ② To publish in the prescribed manner.
- ③ Notice annexed with the published draft for feedback.
- ④ Consideration on suggested^{ion} / objections received from other authorities.
- ⑤ Notified in official Gazette.

Section 24 Continuation of order etc. issued under repealed enactment (old law) in provision reenacted (New law)

- When an Act is repealed or replaced by a new enactment then NOSRFB of old law will still be applicable to new law until & unless it is specifically repealed by the new law.

Case Law: 'State of Punjab v/s Harneek Singh'

Fact of the case was investigation conducted by inspector of police, under the authorisation of notification issued, under "prevention of corruption Act, 1947" will be proper will not be quashed under new notification.

* Miscellaneous Provisions [Sec. 25 to 30]

Section 25 Recovery of fines

- The most common method of recovery of fine is attachment & sale of property & ~~asset~~^{asset} of the person (as in IPC)

Note: Some Statute have their own detailed procedure of recovery of fine like Income Tax Act, 1961.



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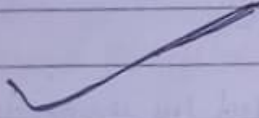
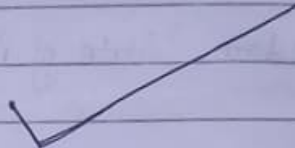
Section 26 Provision as to offence punishable under two or more enactments

- Article 20 of constitution describes "Doctrine of Double Jeopardy".
- It means no person shall be prosecuted or punished for the same offence more than once.
- ~~It means no person shall be prosecuted or punished for the same offence more than once.~~

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Section 27 Meaning of service by post

- Where any legislation requires any document to be served by post then unless a different intention appears, the service shall be deemed to be effected by:
 - (i) Properly addressing.
 - (ii) Pre-paying.
 - (iii) Posting by registered post.

Proof of Reciever	Proof Sent to Sender
RPAD (Registered Post Acknowledgement Due) 	
RP (Registered Post) 	

Case Law: 'United Commercial Bank v/s Bhim Sain Mahija'

Facts of the case: A notice when required to be sent by RPAD is instead sent by RP only, the notice shall be deemed to be **not** served properly **U/s 27.**

Section 28 Citation of Enactment

- One central Act may make references to the another central Act by mentioning short title or title of other.

eg.

115 JB of Income Tax Act



Book Profit as per The Companies Act, 1956

Section 29 Saving for previous enactment, rules & bye laws

The provisions of GICA, 1897 regarding interpretation of law made after commencement of GICA, 1897 shall not affect the interpretation of law that were made before 12th March, 1897 although such previous law are still continuing unless otherwise specified except Sec. 4 & 4A of GICA.

Section 30 Application of Act to ordinance and promulgated by GIC & president under Article 123 of Constitution.