

# GENERAL CLAUSES ACT 1897

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## INTRODUCTION

### WHY WE NEED GENERAL CLAUSES ACT 1897?

The General Clauses Act, 1897 **contains-**

- 'definitions' of some words and also some general principles of interpretation.
- This is an Act intends to provide **general definitions** which shall be applicable to all **Central Acts and Regulations,**

The General Clauses Act is very effective in the **absence of clear definition** in the specific enactments. and

- where there is a conflict between the pre-constitutional laws and post-constitutional laws.

### Object-

The General Clauses Act has been enacted **to shorten language,** used in parliamentary legislation and

- **to avoid the repetition of the same words,**
- in the same course of the same piece of legislation.
- Act is meant to avoid the superfluity of language in a statute wherever it is possible to do so.

**Example** : The court may appoint receiver and ,

- it was implied within that language that court also have power to remove or suspend him.
- But if anyone says that court can not remove or suspend then he can refer GCA.  
(*Rayarappan V. Madhavi Amma, A.I.R. 1950 F.C. 140*)

GCA= 1868 ( it have loopholes & missing features)

GCA = 1887.

The General Clauses Act, 1897 was enacted on **11<sup>th</sup> March, 1897** to consolidate and extend the General Clauses Act, 1868 and 1887.

## **OBJECT, PURPOSE, IMPORTANCE OF GCA**

**The objects of the Act** are several, namely:

1. **To shorten the language of Central Acts:-** It provides principals to follow the meaning of words.

### **Example-**

- Definition is given in the Act = No prob. in interpretation.
- When there is no Definition given = Reference is given.
- No definition and No Ref. = I will go to GCA.
- “Shares” in Co Act 2013 = It is given
- “Securities” = Refer SCRA.
- “Affidavit” = Go to GCA.

### **Example-**

In Companies act- **He** shall be punishable.....

GCA Says that= he includes She.

2. **To provide, , for uniformity of expression in Central Acts-** by giving definitions of a series of terms in common use;
  - a. Matching of views is compulsory for definitions..
    - For example- If the **definition of property** will be defined in 2 or more acts then, it will create confusion always. We will not able to interpretate in same sense.
    - But def should be same.
    - Def of property will be taken from GCA, so that uniformity in expression and in meaning of words.
  - b. Common definitions are given in this act to provide uniformity.

### 3. The purpose of the General Clauses Act is –

- to place in **one single statute** different provisions ,,
- as regards interpretation of words and legal principles,,
- which would, **otherwise have to be specified separately** in many different Acts and Regulations.
- So whatever General Clauses Act says--- whether as regards to the meaning of words or as regards legal principles, --
- has **to be read in every statute** to which it applies.

**Example :** The Supreme Court applied the provisions of **section 24 of the General Clauses Act=** to the Mines Act, 1923 (*Chief Inspector of Mines V. Karam Chand Thapar.*)

The General Clauses Act, thus, makes provisions as to the –

- construction of General Acts and other laws of all-India application. Its importance, therefore, in point of the number of enactments to which it applies, is obvious.
- The act is called the “**Law of all Laws**”.

### APPLICATION OF THE GENERAL CLAUSES ACT

1. Territorial applicability / area/location = Not given in this act. because it is applicable on other acts.
2. The Act not defines any “territorial extent” clause.
3. Its application to **all Central legislation/laws** and also to rules and regulations made under a Central Act.
4. It is in a sense a part of **every Central Acts or Regulations**.
5. If a Central Act is extended to **any territory**, the General Clauses Act would also **deemed to be applicable in that territory and would apply on that Central Act.**
6. The provisions of the General Clauses Act are mere **rules of interpretation** and it apply automatically in each and every case.
7. It all depends on the **facts and circumstances of each case.**
8. General Clauses Act are called **Interpretation Acts.**

9. Provisions of the General Clauses Act (whether relating to definitions and meanings of words and terms or **dealing with construction** and interpretation) are,

- , common to every Central Act,
- the **title** “General Clauses Act” is **not less appropriate** than the title “Interpretation Act”.

10. **The Supreme Court had observed in the case of—**

- **Chief Inspector of Mines vs. K. C. Thapar**“
- Whatever the General Clauses Act says,
- whether as regards the **meanings** of words or as regards **legal principles,-**
- has to **be read** into every Act to which it **applies.”**

## SOME BASIC UNDERSTANDINGS OF LEGISLATION

### “Preamble” :

Every Act has a preamble which expresses the **scope, object and purpose of the Act.**

- It is the main source for understanding the **intention of lawmaker** behind the Act.
- Whenever there is **ambiguity in understanding** any provision of Act, Preamble is may be used to understand it. We can refer it.
- **Summary of the Act.**
- However, the Preamble **does not over-ride** the plain provision of the Act or statute.

**forexample,---**

- 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 and ought to be referred to in order **to arrive at the proper construction.**

In short, 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., means provisions are superior than preamble.**

**Example :** (1) **Preamble of the Negotiable Instruments Act, 1881 states** - “An Act to **define and amend the law** relating to **Promissory Notes, Bills of Exchange and Cheques.**”

(2) **Preamble of the Companies Act, 2013 states** – “An Act to consolidate and amend the law relating to companies.”

### How the Act is passed??

In order to understand Preamble of the Act, it is required to know ‘Act’.

- a. Act is a bill passed by **both the houses of Parliament** and assented to by the President.
- b. Whereas ‘Bill’ is a **draft of a legislative proposal** put in the proper form which,
- c. when passed by both houses of Parliament and
- d. **assented to by the President** becomes an Act.
- e. On getting assent from President, an Act is notified on the Official Gazettes of India.

### “Definitions”:

Every Act contains definition part for the purpose of that particular act and that definition part are usually mentioned in the Section 2 of that Act ,,

- but in some other Acts,
- it is also mentioned in Section 3 or in other initial sections. Hence, definitions are defined in the Act itself.

**However, if there may be words which are not defined in the definitions of the Act, the meaning of such words may be taken from General Clauses Act, 1897.**

- Words are **defined** in the respective Act. Sometimes, definitions are referred in another statutes.
- If words are **not defined** in the respective Acts, such words are to be taken from General Clauses Act.

**Example (1) :** The **word ‘Company’** used in the Companies Act, is defined in section 2(20) of the respective Act.

**Example (2) :** **Word ‘Security’** used in the Companies Act, not defined in the respective Act. It has been defined under section 2(h) of the Securities Contracts (Regulations) Act, 1956. This word is equivalent applicable on the Companies Act, 2013.

**‘Digital signature’** used in the Companies Act, shall be construed as per the section 2(1)(p) of the Information Technology Act, 2000.

The word **‘Affidavit’** used in section 7 during the incorporation of company, in the Companies Act, 2013, shall derive its meaning from the word ‘Affidavit’ as defined in the General Clauses Act, 1897.

### **“Means” and/or “include” :**

Some definitions use the word “means”.

**Means** is a **exhaustive definitions** and **exactly define the term.**

**It does not include anything else.**

#### **Example (1) :**

Definition of ‘Company’ as given in section 2(20) of the Companies Act, 2013. It states, “Company” means a company incorporated under this Act or under any previous company law.

**Example (2) :** Section 2(34) of the Companies Act, 2013 defines the term director as “director” means a director appointed to the **Board** of a company.

Meaning- **Should be appointed by Board.**

**As a director only, not on any other designation.**

**Some definitions use the word “include”.**

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Such definitions do not define the word but are **inclusive in nature.**

Where the word is defined to 'include' such and such, **the definition is 'prima facie' extensive.**

Means it includes something thing else.

It have wide definition.

The word defined is not restricted to the meaning assigned to it ---

- but has **extensive meaning** which also includes the meaning assigned to it in the definition section.

#### **Example (1) :**

*Word 'debenture' defined in section 2(30) of the Companies Act, 2013*

*states that "debenture" includes debenture stock, bonds or **any other instrument** of a company evidencing a debt, whether constituting a charge on the assets of the company or not". **This is a definition of inclusive nature. It is a extensive definition.***

**Example (2) :** *"Body Corporate" or "Corporation" includes a company incorporated outside India. [Section 2(11) of the Companies Act, 2013]*

The above definition of Body Corporate **does not define the term** Body Corporate,

- but just states that companies incorporated outside India **will also cover** under the definition of Body Corporate,
- **apart from other entities**, which is not given here, which are called as Body Corporate.

**'means and includes' = Both**

Here, again the definition would be exhaustive. Some definitions have both words, then it will be exhaustive definitions.

**Example :** Share defined under section 2(84) of the Companies Act, 2013, states that –

**"Share" means a share in the share capital of a company and includes stock; , the definition is understood as extensive.**

## **“Shall” and “May” :**

MAY = Directive Nature. ( option is given)

SHALL= Compulsory nature/ Mandatory order. (like penalties.)

**Example-** Director shall be punishable with fine of Rs 1 lac.

### **SHALL & MAY-**

1. The word ‘**shall**’ is used to raise a presumption of something **which is mandatory** or imperative ,,-

- while the word ‘**may**’ is used to connote something which **is not mandatory,**
- but is only directory or enabling.

2. [May = shall ].. When May will be readed as shall ?

- Hence, while interpreting any provision of law, the words “shall” and “may” have to be given utmost importance---
- to understand what is mandatory and what is optional or directory under law.

**Example (1) :** **“May” shall be read as “shall”.**

Section 3 of the Companies Act, 2013 states that “A company **may be** formed for any **lawful purpose** by ”

- Here the word used **“may” shall be read as “shall”.**
- Usage of word ‘may’ here make it mandatory’ for a company for the compliance of section 3 for its formation.

**Example (2) :** Usage of the ‘may’ shall be read as ‘may’.

**MAY=** Section 21 of the Companies Act, 2013, provides that documents/ proceeding requiring authentication or the contracts made by or on behalf of the company, ---

- **may be** signed by any Key Managerial Personnel or ,
- an officer of the company, (Option is given),,
- duly authorised by the Board in this behalf.
- Usage of the ‘may’ shall be read as ‘may’.

## PRELIMINARY [SECTION 1]

### “Short title” [Section 1(1)] : (Heading)

This Act may be called the General Clauses Act, 1897.

Preliminary is the **introductory part** of any law ---

- which generally contains Short Title, extent, (Where we can refer it)
- commencement, (11<sup>th</sup> March 1897)
- application etc.
- Every act have its title.

## DEFINITIONS [SECTION 3]

Three sections of the General Clauses Act, i.e., sections 3 (Definitions),

- Sec. 4 (application offoregoing definitions to previous enactment) and,,
- 4A (Application of certain definitionsto Indian laws), --contain general definitions.

**Section 3**, which is the principal section **containing definitions**, **applies to---**

- the GeneralClauses Act itself and
- to post-1897 Central Acts and Regulations,
- unless those laws contain **separate definitions** of their own or,,
- there is something repugnant (unacceptable) in the subjector context and hence definition given in section 3 cannot be applied.

### 1. “Act” [Section 3(2)] –

‘Act’, used with reference to an **offence or a civil wrong**, ---

- **Shall** include a series of acts (more than one act),
- and words which refer **to acts done,,,**
- extend also to **illegal omissions**.
- illegal omission means “**do not acted while it was the duty to be acted upon**”.

**Example**- Police office not doing their duty and not defending any person from illegal activity, then it will become illegal omission.

## 2. “Affidavit” [Section 3(3)] :

‘Affidavit’ shall include—

- i. **affirmation and declaration**—
- ii. in the case of persons by law, **allowed to affirm or declare**, instead of swearing.

- The above definition is **inclusive in nature.**
- It states that Affidavit shall include affirmation and declarations.
- Affidavit is a written statement confirmed **by oath or affirmation**,
- for **use as evidence** in Court or before any authority.

**Like-** declaration on stamp paper. Or we can say written swearing instead of oral swear.

Sworn statement.

## 3. “Central Act” [Section 3(7)] :

‘Central Act’ shall **mean** an **Act of Parliament**, (passed in parliament after COI) and --

- **shall includes following acts, which will be central acts-**

Before COI-

- a. An Act of the **Dominion Legislature (act passed before COI by britishers.)** , or
- b. Act passed by **Indian Legislature** ,(act passed before the commencement of COI ),  
**and**
- c. An Act made before such commencement by the **Governor General** in Council,,
  - or the *Governor General acting in a legislative capacity*;
  - \*The date of the commencement of the Constitution is 26<sup>th</sup> January, 1950.

## 4. “Central Government” [Section 3(8)] :

Central Government’ shall-

A. Before COI	B. AFTER COI
<b>A. Governor General in Council</b> will be C.G. and includes- Many Persons were allowed to act on behalf of Govt under GOI Act 1935.	A. President will be C.G. and includes-
i. <b>Principal govt.</b> acting under authority under GOI act 1935 also	ii. State Govt authorized under COI.

called C.G.	
iii. Chief Commissioner acting within scope of authority , under GOI Act 1935, to administer the Province/State.	ii. The Chief Commissioner or the Lieutenant Governor or the Government of a neighbouring State,, appointed to administer the PART-C State..  iv. Administrator of Union Territory, who will manage the Territory.

A. In relation to anything done **before the commencement of the Constitution**, = mean the

- **Governor General in Council**, as the case may be; and shall include,-

(i) In relation to functions entrusted under sub-section (1) of the section 124 of the Government of India Act, 1935, to the Government of a Province, the **Principal Government**,

- acting within the scope of the authority given to it under that sub-section; and

(ii) In relation to the administration of a **Chief Commissioner's Province**,

- the **Chief Commissioner** acting within the scope of the authority given to him under sub-section (3) of section 94 of the said Act; and

A. In relation to anything done or to be done **after the commencement of the constitution of the Constitution**, mean the President; and shall include :-

- In relation to function entrusted under clause (1) of the article of the Constitution, to the Government of a state, **the State Government** acting within the scope of the authority given to it under that clause;
- In relation to the “administration of a Part C State” before the commencement of the Constitution (Seventh Amendment) Act, 1956\*, **the Chief Commissioner or the Lieutenant Governor or the Government of a neighbouring State** or other authority acting within the scope of the authority given to him

or it under article 239 or article 243 of the Constitution, as the case may be; and

- iii. In relation to the administration of a Union territory, the **administrator** thereof acting within the scope of the authority given to him under article 239 of the Constitution;

\*The date of commencement of the Constitution (Seventh Amendment) Act, 1956 is 01<sup>st</sup> January, 1956.

#### 5. "Commencement" [Section 3(13)] :

'Commencement' used with reference to an **Act or Regulation**, ---

- Law can not be enforced without it comes into operation.
- **A Law cannot be said to be in force,,**
- **unless it is brought into operation/commencement ,,**
- **by legislative enactment**, (whole process of parliament) or
- by the exercise of authority by a delegate empowered to bring it into operation.

**Example-** GCA Commencement 11<sup>th</sup> march 1897. When it is published in Official Gazz, then it comes into legal force. **Govt Specify a date** in the gazz.

#### 6. "Document" [Section 3(18)] :

'Document' shall include **any matter written**, expressed or described-

- upon **any substance (wall, paper etc.)**
- by means of 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** , ( filing of docs in a file.)

**For example**, book, notes made for use of students,, file, painting, inscription and even computer files are all documents.

### 7.“Enactment” [Section 2(19)] :

‘Enactment’ shall include –

- i. **a Regulation** (as hereinafter defined) and
- ii. any Regulation of **Bengal, Madras or Bombay Code**, (Acts made by Britishers in these parliaments ) and
- iii. shall also include any **provision** contained in any Act or in any such Regulation as aforesaid;
- iv. It has been held that an “enactment” would include any Act ( or a provision contained therein) made by the **Union Parliament or the State Legislature**.
- v. Again,since “enactment” is defined to include also any provision of an Act,
  - section 6 ( Effect of repeal) would apply to a case where not only the entire Act is repealed,but also where any provision of an Act is repealed.

### 8.“Financial Year” [Section 3(21)]: -

Financial year shall mean the year commencing **on the first day of April to March**.

**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 January to December.**

### Difference between Financial Year and Calendar Year:

Financial year starts from first day of April but Calendar Year starts from first day of January.

### 9.“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 is one of fact.
- It is to determine with reference to the circumstances of each case.
- The term “Good faith” has been **defined differently** in different enactments.
- This definition of the good faith **does not apply to that enactment** which contains a **special definition** of the term “good faith” and
- there the definition given in that particular enactment has to be followed.
- This definition may be applied only if there is nothing repugnant in subject or context, and if that is so, the definition is not applicable.
- 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.

#### 10. “Government” [Section 3(23)] :

‘Government’ or ‘the Government’ shall include both the Central Government and State Government.

- Hence, wherever, the word ‘Government’ is used, it will include Central Government and State Government both.

#### 11. “Government Securities” [Section 3(24)] :

Government securities’ shall mean—

- securities of the Central Government or of any State Government,
- but shall **not include** securities of the Government of any **Part B state**;

**Exp:-** At the time of Pre independence- States are named as part-A, part-B. The PART-B, states which issued the securities before 1897, that are not included in that securities.

#### 11. “Immovable Property” [Section 3(26)] :

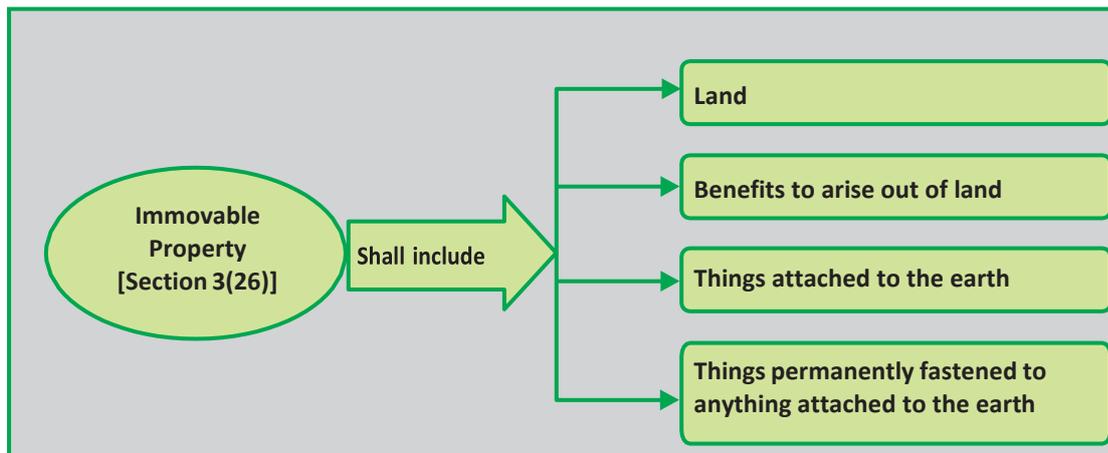
‘Immovable Property’ shall include:

- Land,
- Benefits to arise out of land, (trees is the benefit of land) and
- Things attached to the earth, (Trees) or
- **permanently fastened** to anything attached to the earth, (factory setup, machineries.)

- It is an **inclusive definition**.

**Example 1** : Trees are immovable property because trees are benefits arise out of the land and attached to the earth.

- However, **timber is not immovable property**
- as the same are not permanently attached to the earth.
- In the same manner, buildings are immovable property.



### 13. “Imprisonment” [Section 3(27)] :

‘Imprisonment’ shall mean imprisonment of either description—

- as defined/given in the **Indian Penal Code**. (45 of 1860);

### 14. “Indian law” [Section 3(29)] :

‘Indian law’ shall mean **any Act, Ordinance**, Regulation, rule, order, bye laws or other instrument—

- which **before the commencement of the Constitution**, --
- **was in force of law** ,,
- in any Province of India or part thereof,,
- in any **Part A or Part C State or part thereof**,
- but does not include **any Act of Parliament of the United Kingdom** .

### 15. “Month” [Section 3(35)] :

‘Month’ shall mean a month reckoned according **to the British calendar;**

**Means Jan, feb., March. These are called British calender.**

#### 16. “Movable Property” [Section 3(36)] :

‘Movable Property’ shall mean property of every description, ---

- except immovable property,
- Thus, any property **which is not immovable property** is movable property.
- **Example**- Furniture, Vehicle ,etc.

#### 17. “Oath” [Section 3(37)] :

- ‘Oath’ shall include affirmation and declaration—,,(sworn statement in writing)
- in the case of persons allowed by law,,
- to affirm or declare,,
- instead of swearing.

It is Similar to affidavit, is a legal word in legal sense which is notarised..

**Example**- I declare....that info give =is true & correct....

- like legal heir is authorised to give declaration on behalf of insolvent.

#### 18. “Offence”[Section 3(38)] :

‘Offence’ shall mean **any act or omission—**

- **made punishable by any law,**
- for the time being **in force,**

Example- Sales Tax, Now GST – Punishment will be given acc. to GST act.

#### 19. “Official Gazette” [Section 3(39)] :

‘Official Gazette’ or ‘Gazette’ shall mean:

- The **Gazette of India**, or
- The Official Gazette **of a state.**

**Ex.- Lok Sabha – Rajya Sabha-- Signed by POI-- Published in off Gazz.**

#### 20. “Person”[Section 3(42)] :

“Person” shall include:

- any company, (Pvt/Pub/OPC)
- or association, (Partnership firm)
- or body of individuals, (LLP)
- whether incorporated or not..

### 21. “Registered” [Section 3(49)] :

‘Registered’ used with **reference to a document**, --

- shall mean registered in India under the law,,
- for the time **being force,,**
- for the registration of documents.

**Example** – ROC register the document. Like-in case of incorporation, registration of charge under Companies Act... document will become legal paper when it is registered.

### 22. “Rule” [Section 3(51)] :

**Rule = Process/procedure. Power of making rules = C.G.**

‘Rule’ shall mean a rule made,,

- in exercise of a **power conferred**,
- **by any enactment**, (Like Co. Act given the powers to C.G.)
- and shall **include a Regulation** made as a rule under any enactment.

### 23. “Schedule” [Section 3(52)] :

‘Schedule’ shall mean a schedule to the **Act or Regulation**,-

- in which the **word occurs**;

**Example**- Schedule is mentioned in relation to that word, which is discussed in that Act.

When any Numerical, Chart, format has to be specified, then it is given in the form of Schedule. Like Bal sheet will be in the form of **Schedule III**.

**24. “Section” [Section 3(54)] :** ‘Section’ shall mean a section of the **Act or Regulation** in which the word occurs. Means when any word is referred in a section .

**25. “Sub-section” [Section 3(61)] :** ‘Sub-section’ shall mean a sub-section of the

section in which the word occurs;

**26. “Swear” [Section 3(62)] :** “Swear”, with its **grammatical variations** , (Word difference)

- and cognate expressions, (Similar)
- shall include affirming and declaring in the case of persons by law allowed to affirm or declare,
- instead of swearing.

**Note :** The terms “Affidavit”, “Oath” and “Swear” have the **same definitions** in the Act.

**27. “Writing” [Section 3(65)] :** Expressions referring to ‘writing’ shall be construed as including references to—

- printing, lithography, photography and,,
- other modes of representing or reproducing words,,
- in a **visible forms**; and

**28. “Year” [Section 3(66)] :** ‘year’ shall mean a year reckoned according to the British calendar.

**Application to foregoing definitions to previous enactments [Section 4]-**

There are certain definitions in section 3 of the General Clauses Act, 1897—

- which would also **apply to the Acts and Regulations**—
- made prior to 1897 i.e., on the previous enactments of **1868 and 1887.**

Topic	Application of Definitions/Terms/Expressions	Application of Definitions/Terms/Expressions
Period	<p>a. All Central Acts made <b>after 3<sup>rd</sup> jan.1868.</b></p> <p>b. All Regulations made <b>on or after 14<sup>th</sup> Jan.1887.</b></p>	<p>a. <b><u>All Central Acts &amp; Regulations made on or after 14<sup>th</sup> Jan.1887.</u></b></p>
Definitions	affidavit’, ‘immovable property’, ‘imprisonment’, ‘month’, ‘movable	‘commencement’, ‘financial year’, ‘offence’, ‘registered’, ‘schedule’, ‘sub-section’ and

	property', 'oath', 'person', 'section', 'and 'year'	'writing' these def will be applicable on all acts which is made after above period.
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This provision is divided into two parts- Above **Definitions will apply on following acts.**

**1. Application of terms/expressions to---**

- all [Central Acts] made- after the third day of January, 1868,
- and to **all Regulations** made on or after the 14<sup>th</sup> January, 1887-

Here the given relevant definitions in section 3 of the following words and expressions, that is to say,-- (after 1868 to 1887)

- 'affidavit', 'immovable property', 'imprisonment', 'month', 'movable property', 'oath', 'person', 'section', 'and 'year' apply also, unless there is anything repugnant in the subject or context,
- to all [Central Acts] **made** after the third day of January, 1868, and
- to **all Regulations** made on or after the 14<sup>th</sup> January, 1887.

**2. Application of terms/expressions to all Central Acts and Regulations made on or after the fourteenth day of January, 1887- (Acts made after 1887)---**

**Following definitions will be applicable on acts which is made after 1887-**

The relevant given definitions in the section 3 of the following words and expressions, --

- that is to say, 'commencement', 'financial year', 'offence', 'registered', 'schedule', 'sub-section' and 'writing' apply also,---
- unless there is anything repugnant in the subject or context, (Content should not be contrary or purpose of act is not fulfilled)
- to all Central Acts and Regulations made on or after the fourteenth day of January, 1887.

**Application of certain definitions to Indian Laws [Section 4A]-**

**Only some of the above definitions will be applicable **only on Indian laws.****

**Indian law means which is made by Govt of India.**

The definitions in section 3 of the expressions---which will be applicable only on Indian Laws.

- 'Central Act', 'Central Government', 'Gazette', 'Government',

- ‘Government Securities’, ‘Indian Law’, and ‘Official Gazette’,
- ‘shall apply, --- to Indian laws.
- to **all Indian laws.**

## GENERAL RULES OF CONSTRUCTION: [SECTION 5 to SECTION 13]

### “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,**
- **And after COI-- Assent of President .**
- **Generally the Act come into force on the date of publication in Official Gazzate.**

**Example :** The Companies Act, 2013 received assent of President of India on 29<sup>th</sup> August, 2013 and was notified in Official Gazette on 30<sup>th</sup> August, 2013 with the enforcement of section 1 of the Act. Accordingly, the Companies Act, 2013 came into enforcement on the date of its publication in the Official Gazette.

- Where, if any specific date of enforcement is prescribed in the Official Gazette, Act shall into enforcement from such date.

**Example : When any Amendment is Notified?**

SEBI (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015 was issued by SEBI **vide Notification** dated 14<sup>th</sup> August, 2015,, with effect from 1 January, 2016. –

- Here, this regulation shall come into enforcement on 1<sup>st</sup> January, 2016,,
- rather than the date of its notification in the gazette.

In the case of *State of Uttar Pradesh v. Mahesh Narain*, AIR 2013 SC 1778, Supreme Court held that Effective date of Rules would be when the Rules are published vide Gazette notification and not from date when the Rules were under preparation.

#### **“Effect of Repeal” [Section 6] :**

**Repeal Means- Abolish the Act as it never existed.**

Where any Central legislation or any regulation made –

- after the commencement of this Act (1897) –
- **repeals any Act** made or yet to be made,
- unless another purpose exists,
- **the repeal shall not affect the following:--**
  1. Repeal **anything not enforced** or prevailed during the period at which repeal is effected or;

**(The Act which was not enforced, will not have any effect of Repeal)**

2. Affect the **prior management** of any legislation that is repealed or anything performed or undergone or;

**(Repeal will not have any effect on prior Management where the act is repealed).**

3. Affect any claim, privilege, responsibility or debt obtained, ensued or sustained under any legislation so repealed or;

**( When any benefit is arised or obtained then, repeal will not have any effect over it, benefits will be continue)**

4. Affect any punishment, forfeiture or penalty sustained with regard to any offence committed as opposed to any legislation or

**( Repeal will noy affect any Punishments or penalty given.)**

5. Affect any inquiry, litigation or remedy with regard to such claim, privilege, debtor responsibility or any inquiry, litigation or remedy may be initiated, continued or insisted.

**In State of Uttar Pradesh v. Hirendra Pal Singh, (2011), 5 SCC 305,--**

SC held that whenever an Act is repealed, it must be considered as if **it had never existed**. Object of repeal is to obliterate/Abolish the Act from statutory books, except for certain purposes as provided under Section 6 of the Act.

**Difference Between Repeal and Deletion-**

**In Navrangpura Gam Dharmada Milkat Trust v. Rmtuji Ramaji, AIR 1994 Guj 75:---**

‘Repeal’ of provision is in distinction from ‘deletion’ of provision.

- ‘Repeal’ ordinarily brings about complete obliteration of the provision as if it never existed.
- while deletion’ ordinarily takes effect like- any part or provision is deleted from the Act.

**“Repeal of Act making textual amendment in Act or Regulation” [Section 6A]-**

**When any act is repealed, and it has done any amendments, then amendments will be continue even the Act is repealed.**

**Repeal Means- Abolish the Act as it never existed.**

Where any Central Act or Regulation made—

- after the commencement of this Act,(1897)
- **repeal any enactment.**
- by which the text of any Central Act or Regulation was amended,, by the express omission, insertion or substitution of any matter,
- then unless a different intention appears, **the repeal shall not affect** ,,
- the **continuance of any such amendment** made by the enactment so repealed, and in operation, at the time of such repeal.

Example- In 1933 Wireless Telegraphy Act 1933 was passed, later on In 1949 Amendment Act is passed, Later on In 1952, Repeal & Savings Act is passed, which repealed the Amendment act 1949. So the Amendment passed by 1949 will be Continue..

**“Revival of repealed enactments” [Section 7]-**

(1) In any Central Act or Regulation made ..

- **after the commencement of** this Act (1897),
- it shall be **necessary**, for the purpose of **reviving**,
- either **wholly or partially**,
- any enactment wholly or partially repealed,
- expressed to state that purpose. (***Purpose has to be specified***)

(2) This section applies also to **all Central Acts** made ---

- after the third day of January, 1868 and (previous GCA)
- to **all Regulations** made **on or after** the fourteenth day of January, 1887.

**Explanation- Only this section applies from jan. 1868, which impose a Responsibility to Specify the purpose of revival.**

### **“Construction of references to repealed enactments” [Section 8]-**

**Act which is repealed and have any reference in other act, then how the refence will be construed.**

(1) Where this Act or Central Act or Regulation made **after the commencement of this Act**,

---

- **repeals and re-enacts**, any provision of a **former enactment**, (old act ),
- then references is given **in any other enactment** ,
- unless a different intention appears,
- will be construed as references given ,(according to the Reference),
- in the act which is re-enacted.

**If any Act is Repealed and Another act comes into force which is re-enacted, then New act will be Refereed for the construction of Provision.**

**Example : As per section 115 JB of the Income tax Act, 1961,--**

- calculation of book profits will be according to, the **Companies Act, 1956** are required to be referred.
- **But now Companies Act 2013 has been re enacted.**
- On referring of section 8 of the General Clauses Act,

- book profits to be calculated under section 115 JB of the Income Tax Act will be as per the Companies Act, 2013.
- **It will be construed as per the references to the provision so re-enacted.**

**“Commencement and termination of time” [Section 9] :**

When the time frame will be started and closed??

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”.

**Example:**

If a company declares dividend for its shareholder in its Annual General Meeting held on **30/09/2016**.

- Under the provisions of the Companies Act, 2013,
- company is required to pay declared dividend within 30 days from the date of declaration i.e. from 01/10/2016 to 30/10/2016.
- In this series of 30 days, **30/09/2016 will be excluded** and,,
- **last 30<sup>th</sup> day i.e. 30/10/2016 will be included.**

**“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.

**Example-** Any Form/petition, has to be filed to ROC, and last day is holiday, then it can be filed on next working day when it re opens.

In *K. Soosal rathnam v. Div. Engineer, N.H.C. Tirunelveli*, it was held by Madras High Court that since the **last date of the prescribed period** was subsequent to the date of notification, **declared to be a holiday** on the basis of the principles laid down in this section the last date of prescribed period for obtaining the tender schedules **was extended to the next working day**.

#### “Measurement of Distances” [Section 11] :-

In the measurement of any distance, --

- for the purposes of any Central Act or Regulation 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.**
- According to MAP.

#### Example-

If You want to calculate the distance **between two cities** then it will be measured according to straight line method according to MAP.. and we will take a straight line and calculate the distance. We will not calculate by road. We will calculate by Air.

#### “Duty to be taken **pro rata** in enactments” [Section 12] :

Pro rata means proportionate basis. To distribute on proportionate basis.

Where, by any enactment, now in force, or hereafter to be in force,--

- any duty of customs or excise or in the nature thereof, (such kind of liability)
- is **leviable on** any given **quantity**, by *weight, measure or value* **of any goods** or merchandise,
- then a like duty is leviable according to the **same rate**,
- on any greater or less quantity.

**Example**- A company paid CTC of Rs.12 lacs yearly to employee. So that Monthly salary is Rs. 1 lac. It is simple pro rata calculation. But if he worked for 4 months 20 days. So the calculation will be done according to pro rata basis.

**Example-2** I purchases the goods of Rs. 1 lac and the No of product is total10. And GST is levied @ 18%. I want to calculate the **GST on per product**. So the calculation will be done accordingly. It can be calculated on per gram, value, or quantity etc.

### **“Gender and number” [Section 13] :**

How to read Gender and Number in the Law.

In all legislations and regulations, -

- unless there is anything repugnant in the subject or context-
- Words importing the **masculine gender** shall be taken **to include females**, (He includes she, his includes her) and
- Words in singular shall include the **plural and vice versa**. (Singular may include plural and vice versa.)

### **POWER AND FUNCTIONARIES [SECTION 14 TO SECTION 19]**

#### **“Power conferred (Powers Given) to be exercisable from time to time” [Section 14] :**

(1) Where, by any Central Act or Regulation made, after the commencement of this Act, --

- any **power is conferred**,
- then unless a different intention appears,,
- that power may be exercised from time to time ,,
- **as occasion requires**.

(2) This section applies to all Central Acts and Regulations made **on or after the fourteenth day of January, 1887**. (also applicable to previous acts)

In Short- Authorities have the power to exercise the powers from time to time.

**Like Court have the Power to impose the penalty or Punishment according to gravity of offence.**

#### **“Power to appoint = to include power to appoint ex-officio” [Section 15] :**

Where by any legislation or regulation, a power is given to appoint any person , --

- to fill any office or execute any function is conferred,--

- then unless it is otherwise expressly provided,
- any such appointment, may be made,
- **either by name or by virtue of office/Designation.**

**Ex-officio is a Latin word** which means by virtue of one's position or office. Means to appoint a person on behalf of a person.

**Example-** The person who is retiring, then he can be re appointed.

**Like auditor, like individual can be appointed , then 5 year was cooling period, then again**

**Ex officio auditor can be re appointed for 5 years.**

**Like Independent Director also.**

- Provision under this section states that where there is a power to appoint,
- the appointment maybe made by appointing ex-officio as well.

**“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.

**Example-** BOD have the authority to appoint the auditor, then they can also suspend the auditor , If shareholder Appoint the auditor in G.M. then, they can also suspend or remove the Auditor.

**“Substitution of functionaries” [Section 17] :**

The Person who is doing his functions **under his designation**, he is called functionaries. Like CM , PM, Director etc. .The law will be applicable on person , who is taking the post and doing function. Because functions will be performed by person.

(1) In any Central Act or Regulation 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 ,, (one or more)**
- **for the time being, executing the functions of an office,**
- to mention the **official title of the officer, (Director/CM/PM)**

- at present executing the functions, or that of the officer by whom the functions are commonly executed.

**Example-** Chairman of meeting is appointed. Chairman is the designation or post. Chairman do his work in the meeting. Like Mr. X is the chairman of the meeting and after 1 year Mr. Y is the chairman of the meeting. Then functions of chairman will be applicable to person to person.

(2) This **section applies** also to all Central Acts made after the third day of January, 1868 and to all Regulations made on or after the fourteenth day of January, 1887.

### **“Successors” [Section 18] :-**

When any authority is changed, management of authority is changed then New Authority will be called Successors. Like CLB, Then NCLT. The notification passed by CLB will be continue.

(1) In any Central Act or Regulation 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,
- **Law will become applicable on Successor rather than functionaries.**

This section **shall also applies** to all Central Acts made after the third day of January, 1868 and to all Regulations made on or after the fourteenth day of January, 1887.

### **“Official Chiefs and subordinates” [Section 19] :**

The Law which apply on **Chief or Superior**, then it will also apply on its subordinates.

A law relative to the chief or superior of an office shall also 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.
- (Rules / Law will be applicable to Subordinates /staff members.)

**PROVISION AS TO ORDERS, RULES ETC. MADE UNDER ENACTMENTS**  
**[SECTION 20 TO SECTION 24]**

**“Construction of orders, etc. (it cover Rules, Notification etc), issued under enactments”**  
**[Section 20] :**

Where by any legislation or regulation,---

- a **power to issue** any notification, order, scheme, rule, form, or by-law is conferred,--
- **then expression** used in the (notification, order, scheme, rule, form or bye-law), shall,--
- unless there is anything repugnant in the subject or context,
- **have the same respective meaning,,**
- as in the Act or regulation conferring power.

**Example:-** Like a Notification is introduced that, A director can not take the loan above rs.5 lac. So **meaning of Director means will be what.**

Director means the meaning which is given in Companies Act 2013.

In *Subhash Ram Kumar v. State of Maharashtra*, AIR 2003 SC 269,---

it was held that ‘Notification’ in common English acceptance mean and imply a formal announcement of a legally relevant fact and “notification publish in Official Gazette” means notification published by the authority of law.

**“Power to issue,= to include power to add to, amend, vary or rescind,, notifications, orders, rules or bye-laws” [Section 21] :**

Where by any legislations or regulations—

- a power to issue notifications, orders, rules or bye-laws is conferred,--
- then that power,
- exercisable in the **like manner** and **subject to the like sanction and conditions,,**
- **Example-S.R. is required for removal of director. Then condition has to be fulfilled.**

In *Rasid Javed v. State of Uttar Pradesh*, AIR 2010 SC 2275, Supreme Court held that under Section 21 of the Act, an authority which has the power to issue a notification has the undoubted power to rescind or modify the notification in the like manner.

In *Shreesidhballi Steels Ltd. V. State of Uttar Pradesh*, AIR 2011 SC 1175, Supreme Court held that power under section 21 of the Act is not so limited as to be exercised only once power can be exercised from time to time having regard to exigency of time.

**“Making of rules or bye-laws and issuing of orders, between passing and commencement of enactment” [Section 22] :**

Act passed on = 01/01/2020, But commenced on =10/01/2020. Orders are passed between that period. when will they effective..

Where, by any Central 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,
- the appointment of any Judge or officer thereunder, 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 passing of the Act** or Regulation;
- **but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.**

**“Provisions applicable to making of rules or bye-laws, after previous publications”**  
**[Section 23] :**

Where, by any Central 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:-

The authority having power to make the rules or bye-laws shall, before making them,---

- a. **publish a draft** of the proposed rules or bye-laws ,,
- b. for the **information of persons** likely to be affected thereby;
- c. The publication shall be made **, in such manner** as the Government concerned prescribes;
- d. There shall be published with the **draft a notice** specifying a date on or after which the draft will be taken into consideration;
- e. If **sanction of any authority require**, than take sanction, approval or concurrence of another authority, --
  - that authority also shall consider **any objection or suggestion** which maybe received by the authority,,
- f. The **publication in the Official 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-laws has been duly made.

**Continuation of orders issued under, enactments repealed and re-enacted”[Section 24] :**

**Example-** Some orders are issued under Co act 1956,

Where any Central 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, rule, form or bye-law, made or issued under the repealed Act,
- **continue in force**, and be **deemed to have been made or issued** under the notification, order, scheme, rule, form or bye-law, made or issued under the provisions so re-enacted..
- *It will be deemed that it is issued under new act.*
- and when any Central Act or Regulation, which, by a notification under section 5 or 5A of the Scheduled District Act, 1874, or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from the 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.

In *State of Punjab v. Harneek Singh*, AIR 2002 SC 1074, It was held that investigation conducted by Inspectors of Police, under the authorization of notification issued under Prevention of Corruption Act, of 1947 will be proper and will not be quashed under new notification taking the above power, till the aforesaid notification is specifically superseded or withdrawn or modified under the new notification.

## MISCELLANEOUS [SECTION 25 TO SECTION 30]

### “Recovery of fines” [Section 25] :

Section 63 to 70 of the Indian Penal Code (IPC) and the provisions of the Code of Criminal Procedure (CCP) 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 (central act)**, Regulation, rule or bye-laws,
- unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

### “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.

**Example-** Offence is punishable in Companies act and property act, then punished in any one of the act.

### “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:- Conditions for service by post--**
- properly addressing,
- pre-paying, and
- posting by registered post.

A letter containing the document to have been effected at the time --at which the letter would be delivered in the **ordinary course of post**.

***In Jagdish Singhv. Natthu Singh, AIR 1992 SC 1604,--***

it was held that where a notice is sent to the landlord by registered post and the same is returned by the tenant with an endorsement of refusal, it will be presumed that the notice has been served.

***In Smt. Vandana Gulati v. Gurmeet Singh alias Mangal Singh, AIR 2013 All 69,---***

it was held that where notice sent by registered post to person concerned at proper address is deemed to be served upon him in due course , unless contrary is proved.

- Endorsement ‘not claimed/not met’ is sufficient to prove deemed service of notice.

**“Saving for previous enactments, rules and bye laws” [Section 29] :**

The provisions of this Act--

- which defining the **construction** of Acts, Regulations, rules or bye-laws , ,
- **made after commencement** of this Act---
- **shall not affect the construction of any Act**, Regulation,rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law , ,
- madeafter the commencement of this Act.
- 

Example- Sec. 5 to 13 lay down the rules of construction.

**“Application of Act to Ordinances” [Section 30] :-**

In this Act the expression CentralAct, wherever it occurs, except in Section 5 and the word ‘Act’ in clauses (9), (13), (25),(40), (43), (53) and (54) of section 3 and in section 25 shall be deemed to include Ordinance made and promulgated by the Governor General under section 23 ofthe Indian Councils Act, 1861 or section 72 of the Government of India Act,

1915, or section 42 of the Government of India Act, 1935 and an Ordinance promulgated by the President under article 123 of the Constitution.

## QUESTION AND ANSWERS

1. The General Clauses Act, 1897 intends to:
  - (a) Provide general definitions.
  - (b) Applicable to all Central Acts and Regulations.
  - (c) Applicable where there is no definition, unless there is anything repugnant in the subject or context.
  - (d) All of the above.**
2. The General Clauses Act is one of the oldest Acts, came into force on:
  - (a) 01<sup>st</sup> April, 1897
  - (b) 11<sup>th</sup> March, 1897
  - (c) 11<sup>th</sup> March, 1887
  - (d) 01<sup>st</sup> April, 1868
3. The preamble is most important in any legislation, it:
  - (a) Provides definitions in the Act.
  - (b) Expresses scope, object and purpose of the Act.
  - (c) Provides summary of the entire Act.
  - (d) None of the above.
4. As per a Rule of an Educational Institution, every student may come on weekends for extra classes but every student shall appear on a weekly test conducted in the institute, which means:
  - (a) Attending weekend classes is optional but appearing in weekly test is compulsory
  - (b) Attending weekend classes is compulsory but appearing in weekly test is optional
  - (c) Attending weekend classes and appearing in weekly test, both are compulsory for students
  - (d) Attending weekend classes and appearing in weekly test both are

optional for students.

5. Which of the following is not an Immovable Property:
- (a) Land
  - (b) Building
  - (c) Timber
  - (d) Machinery permanently attached to the land

### Answer to MCQs

1. (d)	2. (b)	3. (b)	4. (a)	5. (c)
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### Question 1

*What is “Financial Year” under the General Clauses Act, 1897?*

#### Answer

According to Section 3(21) of the General Clauses Act, 1897, ‘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 January to December.

Hence, in view of the both above definitions, it can be concluded that Financial Year is a year which starts from first day of April to the end of March

### Question 2

*What is “Immovable Property” under the General Clauses Act, 1897?*

#### Answer

According to **Section 3(26) of the General Clauses Act, 1897**, ‘Immovable Property’ shall include:

- (i) Land,
- (ii) Benefits to arise out of land, and
- (iii) Things attached to the earth, or permanently fastened to anything attached to the earth.

For example, trees are immovable property because trees are benefits arise out of

theland and attached to the earth. However, timber is not immovable property as the same are not permanently attached to the earth. In the same manner, buildings are immovable property.

### Question 3

*As per the provisions of the Companies Act, 2013, a whole time Key Managerial Personnel (KMP) shall not hold office in more than one company except its subsidiary company at the same time. Referring to the Section 13 of the General Clauses Act, 1897, examine whether a whole time KMP can be appointed in more than one subsidiary companies?*

### Answer

**Section 203(3) of the Companies Act, 2013** provides that whole time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time. With respect to the issue that whether a whole time KMP of holding company be appointed in more than one subsidiary companies or can be appointed in only one subsidiary company.

**It can be noted that Section 13 of General Clauses Act, 1897** provides that the word 'singular' shall include the 'plural', unless there is anything repugnant to the subject or the context. Thus, a whole time key managerial personnel may hold office in more than one subsidiary company as per the present law.

### Question 4

*A notice when required under the Statutory rules to be sent by "registered post acknowledgment due" is instead sent by "registered post" only. Whether the protection of presumption regarding serving of notice by "registered post" under the General Clauses Act is tenable? Referring to the provisions of the General Clauses Act, 1897, examine the validity of such notice in this case.*

### Answer

As per the provisions of Section 27 of the General Clauses Act, 1897, 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:

- (i) properly addressing,
- (ii) pre-paying, and
- (iii) posting by registered post.

A letter containing the document to have been effected at the time at which the letter would be

delivered in the ordinary course of post.

Therefore, in view of the above provision, since, the statutory rules itself provides about the service of notice that a notice when required under said statutory rules to be sent by 'registered post acknowledgement due', then, if notice was sent by 'registered post' only it will not be the compliance of said rules. However, if such provision was not provided by such statutory rules, then service of notice if by registered post only shall be deemed to be effected.

Furthermore, in similar case of *In United Commercial Bank v. Bhim Sain Makhija, AIR 1994 Del 181* : A notice when required under the statutory rules to be sent by 'registered post acknowledgement due' is instead sent by 'registered post' only, the protection of presumption regarding serving of notice under 'registered post' under this section of the Act neither tenable not based upon sound exposition of law.