



## The Bengal General Clauses Act, 1899

Act 1 of 1899

**Keyword(s):**

Abet, Act, Affidavit, Barrister, Bengal Act, Chapter, Collector, Commencement, Consular Officer, District Judge, Document, Enactment, Financial Year, Good Faith, Immovable Property, Imprisonment, Magistrate, Master, Movable Property, Oath, Offence, Part, Public Nuisance, Scheduled District, Ship, Sign, Son, Sub-section, Swear, Vessel, West Bengal Act, Will, Expressions Referring to Writing

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## Bengal Act I of 1899

(The Bengal General Clauses Act, 1899.)<sup>1</sup>

AMENDED	...	<div style="border-left: 1px solid black; padding-left: 5px;">           Ben. Act I of 1914.            Ben. Act I of 1939.            Ben. Act I of 1940.         </div>
REPEALED IN PART AND AMENDED.	...	<div style="border-left: 1px solid black; padding-left: 5px;">           Act I of 1903.         </div>
ADAPTED	... ..	<div style="border-left: 1px solid black; padding-left: 5px;">           (a) The Government of            India (Adaptation            of Indian Laws)            Order, 1937.             (b) The Indian Inde-            pendence (Adapta-            tion of Bengal and            Punjab Acts) Or-            der, 1948.             (c) The Adaptation of            Laws Order, 1950.         </div>

(18th January, 1899.)

*An Act for further shortening the language used in Bengal Acts  
<sup>2</sup>[and West Bengal Acts] and for other purposes.*

WHEREAS it is expedient further to shorten the language used in Bengal Acts <sup>2</sup>[and West Bengal Acts], and to make certain other provisions relating to those Acts ;

It is hereby enacted as follows :—

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<sup>1</sup>LOCAL EXTENT.—Since this Act has no "local extent" clause, it must be taken originally to have extended to the whole of the former Province of Bengal including the de-regulationised tracts.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see the Calcutta Gazette* of 1898, Pt. IV, page 570, and for Proceedings in Council, *see ibid.*, supplement, pages 1426, 1428, 1579 and 2538.

OTHER SIMILAR ACTS.—This Act closely follows the General Clauses Act, 1897 (X of 1897), passed by the Governor General in Council (printed in volume V Pt. VIII, page 7 of the India Code). Some of its clauses are based on clauses of the Interpretation Act, 1889 (52 & 53 Vict. C. 63), Printed in the Collection of Statutes relating to India, 1913. Similar Acts have been passed by other Legislatures in India, viz., Madras Acts I of 1867 and I of 1891, Bombay Act I of 1904, Eastern Bengal and Assam Act I of 1909, United Provinces Act I of 1904, Punjab Act I of 1898, and Assam Act II of 1915.

<sup>2</sup>These words were inserted by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

(Preliminary.—Sections 1, 2.—General Definitions.—Section 3.)

### Preliminary.

- Short title. 1. This Act may be called the Bengal General Clauses Act, 1899.  
 2. (Repeal of Bengal Act V of 1867.)—Rep. by s. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).

### General Definitions.

- Definitions. 3. In this Act, and in all Bengal Acts made after the commencement of this <sup>1</sup>Act <sup>2</sup>[and in all West Bengal Acts] unless there is anything repugnant in the subject or context,—

- “Abet.” (1) “abet” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code<sup>3</sup>;
- “Act.” (2)<sup>4</sup> “act” used with reference to an offence or a civil wrong, shall include a series of acts ; and words which refer to acts done shall extend also to illegal omissions ;
- “Affidavit.” (3)<sup>5</sup> “affidavit” shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing ;
- “Barrister.” (4) “barrister” shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland ;

Act XLV of  
1860.

\* \* \* \* \*

<sup>1</sup>Some of the definitions in this section apply also to Bengal Acts made between the 1st June, 1867, and the commencement of the present Act—see s. 4. For two further definitions applying to such Acts, see section 5.

<sup>2</sup>These words were inserted by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>3</sup>See Act XLV of 1860, sections 107, 108 and 108A, in Vol. III, Pt. IV, Page 3 of the India Code.

<sup>4</sup>Cf. section 33 of the Indian Penal Code (Act XLV of 1860) in the India Code.

<sup>5</sup>Cf. the definitions of “oath” and “swear” in clauses (29) and (44).

For the law relating to judicial oaths, affirmations and declarations, see the Indian Oaths Act, 1873 (X of 1873), in the India Code.

<sup>6</sup>As to affidavits to be used before Civil Courts, see also section 139 of and rules 1 to 3 in Order XIX in Sch. 1 to the Code of Civil Procedure (Act V of 1908) in the India Code.

As to affidavits to be used before a High Court in Criminal matters, see also section 539 and section 539A of the Code of Criminal Procedure, 1898 (Act V of 1898), in the India Code.

Clause (5) was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1899.]

(General Definitions.—Section 3.)

24 & 25,  
Vict., c. 67,  
55 & 56  
Vict., c. 14.

- (6)<sup>1</sup> "Bengal Act" shall mean an Act made by the Lieutenant-Governor of Bengal in Council under <sup>2</sup>[the Indian Councils Act, 1861, or] the <sup>3</sup>Indian Councils Acts, 1861 and 1892 <sup>4</sup>[or the Indian Councils Acts, 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the <sup>3</sup>Indian Council Acts, 1861, 1892 and 1909] <sup>5</sup>[or the Government of India Act, 1915, or by the Local Legislature or the Governor of Bengal under the Government of India Act, or by the <sup>6</sup>(Provincial Legislature) or the Governor of Bengal under the Government of India Act, 1935.]
- "Bengal Act."
- (7) "Chapter" shall mean a Chapter of the Act in which the word occurs ;
- "Chapter."
- (8) "Collector" shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer in charge of the revenue administration of a district ;
- "Collector."
- (9)<sup>7</sup> "commencement", used with reference to an Act, shall mean the day on which the Act comes into force ;
- "Commencement."
- (10) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division ;
- "Commissioner."
- (11)<sup>8</sup> "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for
- "Consular officer."

<sup>1</sup>A similar definition is given in clause (3) of section 3 of the General Clauses Act, 1897 (X of 1897), printed in the India Code. The definition was inserted in order to introduce a uniform method of citing Acts of the Bengal Council and to suggest the abandonment of the various other methods formerly adopted, e. g. "Act (B.C.) of 1869," "Act I of 1869 passed by the Lieutenant Governor of Bengal in Council". The method of citation most commonly adopted was "Act I (B.C.) of 1869," but the abbreviation of "(B.C.)" is peculiarly inappropriate, inasmuch as it would stand equally well for Acts of the Bombay or Burma Council, and is the recognised abbreviation for "Before Christ."

<sup>2</sup>These words and figures were inserted by s. 3 and the Second Sch. of the Amending Act, 1903 (I of 1903).

<sup>3</sup>These Acts have been repealed by the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61), s. 130 and the Fourth Schedule.

<sup>4</sup>These words and figures were added by the Bengal Laws Act, 1914 (Ben. Act I of 1914).

<sup>5</sup>These words and figures were inserted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>6</sup>This expression shall stand unmodified. *Vide* para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

<sup>7</sup>As to when an Act comes into force, see section 6.

<sup>8</sup>For a similar definition, see the Consular Salaries and Fees Act, 1891 (54 & 55 Vict., c. 36) section 3.

## (General Definitions.—Section 3.)

		the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent ;
"District Judge."	(12)	"District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction ;
"Document."	(13) <sup>1</sup>	"document" shall include any matter written <sup>2</sup> , expressed or described upon any substance 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 ;
"Enactment."	(14)	"enactment" shall include a Regulation (as hereinafter <sup>3</sup> defined) and any regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid ;
"Father."	(15)	"father" in the case of anyone whose personal law permits adoption, shall include an adoptive father ;
"Financial year."	(16)	"financial year " shall mean the year commencing on the first day of April ;
"Good faith."	(17) <sup>4</sup>	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 ;
	5*	* * * * *
	6*	* * * * *
	7*	* * * * *

<sup>1</sup>For similar definitions, see the Indian Penal Code (Act XLV of 1860), section 29, in the India Code and the Indian Evidence Act, 1872 (1 of 1872), section 3, in the India Code.

<sup>2</sup>As to construction of expressions referring to writing, see clause (47) of this section.

<sup>3</sup>See clause (35) of this section.

<sup>4</sup>For a similar definition see the Bills of Exchange Act, 1882 (45 & 46 Vict., c. 61), section 90, and the Sale of Goods Act, 1893 (55 & 56 Vict., c. 71), section 62 (2).

For a discussion in His Excellency the Viceroy's Council upon a similar definition of "good faith" contained in clause (20) of section 3 of the General Clauses Act, 1897, see the *Gazette of India*, March, 1897, Pt. VI, pages 55 to 62 and 76 to 79.

The definition in the present Act differs from the definition of "good faith" contained in section 52 of the Indian Penal Code (Act XLV of 1860).

<sup>5</sup>Clause 18 was omitted by section 2(1) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

<sup>6</sup>Clauses 19 and 24 were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>7</sup>Clause 20 was omitted by s. 2(1) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

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(General Definitions.—Section 3.)

Act XLV of 1860.	(21) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;	"Immovable property."
	(22) "imprisonment" shall mean imprisonment of either description <sup>2</sup> as defined in the Indian Penal Code :	"Imprisonment."
	(23) <sup>3</sup> "local authority" shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund ;	"Local authority."
	* * * * *	
Act V of 1898.	(25) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure <sup>4</sup> for the time being in force ;	"Magistrate."
	(26) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship ;	"Master" (of a ship).
	(27) "month" shall mean a month reckoned according to the British calendar ;	"Month."
	(28) "movable property" shall mean property of every description, except immovable property ;	"Movable property."
	(29) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing <sup>5</sup> ;	"Oath."
	(30) "offence" shall mean any act or omission made punishable by any law for the time being in force ;	"Offence."

<sup>1</sup>The expression "immovable property" is defined differently in the Indian Registration Act, 1908 (XVI of 1908), section 2(6). For a definition of "land" applicable to Bengal Acts made between the 1st June, 1867, and the 18th January, 1899, see section 5.

<sup>2</sup>*i.e.*, rigorous or simple, see sec. 53 of Act XLV of 1860.

<sup>3</sup>For a very similar definition, see the Local Authorities Loans Act, 1914 (IX of 1914), section 2.

<sup>4</sup>See foot-note 6 on page 162, *ante*.

<sup>5</sup>The Code now in force is Act V of 1898.

<sup>6</sup>For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), section 742, in the Collection of Statutes relating to India, 1913.

<sup>7</sup>For a comprehensive definition of the word "property," see section 168 of the Bankruptcy Act, 1883 (46 and 47 Vict., c. 52).

<sup>8</sup>*Cf.* the definition of "affidavit" in clauses (3) of this section and see the foot-notes thereto.

<sup>9</sup>For a similar definition, see section 4(0) the Code of Criminal Procedure, 1898 (Act V of 1898).

## (General Definitions.—Section 3.)

"Part."	(31) "Part" shall mean a part of the Act in which the word occurs ;	
"Person."	(32) "person" shall include any company or association or body of individuals, whether incorporated or not ;	
"Public nuisance."	(33) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code <sup>2</sup> ;	
"Registered."	(34) "registered" used with reference to a document, shall mean registered in <sup>3</sup> [a Part A State or a Part C State] under the law <sup>1</sup> for the time being in force for the registration of documents :	
"Regulation."	<sup>5</sup> (35) "Regulation" shall mean a Regulation made by the Governor under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution and shall include a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935, or by the Governor under the Government of India Act, 1935, or by the President under Article 243 of the Constitution ;	Act XLV of 1860.  33 and 34 Vict., c. 3, 5 and 6 Geo. V, c. 61, 26 Geo. V, c. 2.
"Rule."	(36) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment ;	
"Schedule."	(37) "Schedule" shall mean a schedule to the Act in which the word occurs ;	
"Scheduled District."	(38) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874 ;	XIV of 1874.
"Section."	(39) "section" shall mean a section of the Act in which the word occurs ;	

<sup>1</sup>For a different definition of "person" applicable to Bengal Acts made between the 1st June, 1867, and the 18th January, 1899, see section 5.

<sup>2</sup>See Act XLV of 1860, section. 268. For procedure in dealing with public nuisances, see Ch. X of the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>3</sup>The words "a Province" were originally substituted for the words "British India" by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948, and thereafter these words and letters were substituted for the words "a Province" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

<sup>4</sup>See the Indian Registration Act, 1908 (XVI of 1908).

<sup>5</sup>This clause was substituted for the former clause by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws order, 1950.

<sup>6</sup>For provisions as to rules, see sections 21 to 26, 29 and 30.

(General Definitions.—Section 3.)

- |                    |  |                |
|--------------------|--|----------------|
| (40)               | "ship" shall include every description of vessel <sup>2</sup> used in navigation not exclusively propelled by oars ;   | "Ship."        |
| (41)               | "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions ;                           | "Sign."        |
| (42)               | "son", in the case of anyone whose personal law permits adoption, shall include an adopted son ;   | "Son."         |
| (43)               | "sub-section" shall mean a sub-section of the section in which the word occurs ;   | "Sub-section." |
| (44)               | <sup>3</sup> "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing ;                                  | "Swear."       |
| (45)               | <sup>4</sup> "vessel" shall include any ship <sup>1</sup> or boat or any other description of vessel used in navigation ;  | "Vessel."      |
| <sup>5</sup> (45a) | "West Bengal Act" shall mean an Act made by the <sup>6</sup> [Provincial] Legislature of West Bengal under the Government of India Act, 1935, <sup>7</sup> [or by the Legislature of the State of West Bengal under the Constitution]; |                |
| (46)               | "will" shall include a codicil and every writing making a voluntary posthumous disposition of property ;   | "Will."        |
| (47)               | 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 form ; and                                       | "Writing."     |

<sup>1</sup>For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) section 742, in the Collection of Statutes relating to India, 1913.

<sup>2</sup>For definition of "vessel", see clause (45) of this section.

<sup>3</sup>Cf. the definition of "affidavit" in clause (3) of this section, and see the foot-notes thereto.

<sup>4</sup>For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) section 742, in the Collection of Statutes relating to India.

The word "vessel" is differently defined in the Indian Penal Code (Act XLV of 1860), section 48.

<sup>5</sup>This clause was inserted by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>6</sup>This word shall stand unmodified, see para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

<sup>7</sup>These words within square brackets were added, *ibid.*

<sup>8</sup>The word "will" is differently defined in the Indian Succession Act, 1925 (XXXIX of 1925), section 2(h).



*(General Definitions.—Sections 4, 5 & 5A.)*

(48) "year" shall mean a year reckoned according to the British calendar.<sup>1</sup>

7.  
Applica-  
tion of cer-  
tain of the  
foregoing  
definitions  
to previous  
Bengal  
Acts.

4. The definitions in section 3 of the following words, that is to say, "affidavit," "Magistrate," "month," "oath," and "swear," apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts, made between the first day of June, 1867, and the commencement of this Act.

Continu-  
ance of  
certain  
definitions  
for pur-  
poses of  
previous  
Bengal Act.

5. In all Bengal Acts made between the first day of June, 1867, and the commencement of this Act, unless there is anything repugnant in the subject or context,—

(1) "land" includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure ; and

(2) "person" includes any incorporated company or incorporated association of persons.

Applica-  
tion of  
certain  
definitions  
in section 3  
of Act X of  
1897 to all  
Bengal and  
West  
Bengal  
Acts.

<sup>2</sup>5A.<sup>3</sup>[(1) The definitions in section 3 of the General Clauses Act, 1897 (X of 1897) of the expressions "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities", "High Court", "India", "Indian Law", "Indian State", "merged territories", "Official Gazette", "Part A State", "Part B State", "Part C State", "Province", "Provincial Act", "Provincial Government", "State", "State Act", and "State Government" shall apply also unless there is anything repugnant in the subject or context to all Bengal and West Bengal Acts.]

X of 1897.

(2) In any Bengal Act <sup>4</sup>[or West Bengal Act], references to the "State" <sup>5</sup>Government" or "Central Government" in any provision conferring power to make appointments to the civil services of, or civil posts under, the Government <sup>6</sup>in India include references to such

<sup>1</sup>For definition of "financial year," see clause (16) of this section.

<sup>2</sup>This section was inserted by s. 3 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

<sup>3</sup>Sub-section (1) was substituted for the former sub-section by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

<sup>4</sup>These words were inserted by paragraph (1) of Article 3 of, and the Sch. to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>5</sup>The word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

<sup>6</sup>The word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

of 1899.]

(General Rules of Construction.—Section 6.)

person as the State<sup>1</sup> Government or the Central Government, as the case may be, may direct, and in any provision conferring power to make rules prescribing the conditions of service of persons serving<sup>2</sup> [Government] in a civil capacity in India, include references to any person authorised by the State<sup>1</sup> Government or the Central Government, as the case may be, to make rules for the purpose.

(3) The references in any Bengal Act<sup>3</sup> [or West Bengal Act] to servants of or under, or to service of or under, the Central Government or the State<sup>1</sup> Government or the State<sup>4</sup> of<sup>5</sup> [West Bengal], to property of, or belonging to, or vested in, the Secretary of State in Council or the Central Government or the Provincial Government or the Province of Bengal, and to forfeitures to the Central Government or the Provincial Government or the Province of Bengal, shall be construed as references respectively to persons in the service of the Crown, to the service of the Crown, to property vested in the Crown, and to forfeitures to the Crown.

**General Rules of Construction.**

6. <sup>6</sup>[(1) Where any Bengal Act or West Bengal Act is not expressed to come into operation on a particular day,—

(a) in the case of a Bengal Act or West Bengal Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor General or His Majesty, as the case may require, is first published in the *Official Gazette*, and if it is an Act of the Governor of Bengal, on the day on which it is first published as an Act in the *Official Gazette* ;

(b) in the case of a West Bengal Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette*.]

Coming into operation of Bengal Acts or West Bengal Acts.

<sup>1</sup>See foot-note 5 on page 180, *ante*.

<sup>2</sup>This word was substituted for the words "His Majesty" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

<sup>3</sup>See foot-note 4 on page 180, *ante*.

<sup>4</sup>The word "State" was substituted for the word "Province" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

<sup>5</sup>Substituted for the word "Bengal" by para.3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>6</sup>Sub-section (1) was substituted for the former sub-section (1) by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

*(General Rules of Construction.—Sections 7, 8.)*

(2) Unless the contrary is expressed, a Bengal Act <sup>1</sup>[or West Bengal Act] shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Printing of date on which Act is published after having received the assent of the Governor, Governor-General or His Majesty or the President.

7. In this Act, and in every Bengal Act <sup>1</sup>[or West Bengal Act] made after the commencement of this Act, the date of such publication as is mentioned in section 6, <sup>2</sup> shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal.

8. Where this Act, or any Bengal Act <sup>1</sup>[or West Bengal Act] made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect ; or
- (b) affect the previous operation of any enactment so repealed or anything duly done<sup>3</sup> or suffered thereunder ; or
- (c) affect any right, privilege, obligation, or liability<sup>3</sup> acquired, accrued or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

<sup>1</sup>See foot-note 4 on page 180, *ante*.

<sup>2</sup>The word, figure and brackets "sub-section (1)," were omitted by para. 3 and Schedule IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>As to the continuance of orders, etc., made under an enactment which is repealed and re-enacted, see section 25.

of 1899.]

(General Rules of Construction.—Sections 8A & 9—13.)

8A. Where any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of this Act repeals any enactment by which the text of any former enactment 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.

Repeal of Act making textual amendment in former Act.

9. (1) In any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Revival of repealed enactments.

(2) This section applies also to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act.

10. Where this Act, or any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of this Act, repeals and re-enacts with or without modifications, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Construction of references to repealed enactments.

11. In any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of this Act, 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".

Commencement and termination of time.

12. Where, by any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of this Act, 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 the 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 :

Computation of time.

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act,<sup>3</sup> [1908], applies.

IX of 1908.

13. In the measurement of any distance for the purposes of any Bengal Act<sup>2</sup> [or West Bengal Act] made after the commencement of

Measurement of distances.

<sup>1</sup>This section was inserted by s.4 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

<sup>2</sup>See foot-note 4 on page 180, ante.

<sup>3</sup>These figures were substituted for the figures "1877" by s.2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939)

(General Rules of Construction.—Sections 14, 14A.—Powers and Functionaries.—Sections 15—18).

this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and number.

14. In all Bengal Acts <sup>1</sup>[and West Bengal Acts], unless there is anything repugnant in the subject or context,—

- (1) words importing the masculine gender shall be taken to include females ; and
- (2) words in the singular shall include the plural, and *vice versa*.

14A. [References to the Sovereign.—Rep. by para.3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.]

*Powers and Functionaries.*

Powers conferred to be exercisable from time to time.

15. Where, by any Bengal Act <sup>2</sup>[or West Bengal Act] made after the commencement of this Act, any power is conferred <sup>3</sup>[then, unless a different intention appears] that power may be exercised from time to time as occasion requires.

Power to appoint to include power to appoint *ex-officio*.

16. Where, by any Bengal Act <sup>2</sup>[or West Bengal Act], a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

17. <sup>4</sup>Where, by any Bengal Act <sup>2</sup>[or West Bengal Act], a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substitution of functionaries.

18. In any Bengal Act <sup>2</sup>[or West Bengal Act] 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 for the time being executing the functions of an office, to

<sup>1</sup>These words were inserted by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

<sup>2</sup>See foot-note 4 on page 180. *ante*.

<sup>3</sup>These words were substituted for the words "on the Government, then" by s.6 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

<sup>4</sup>As to section 17, see the Notes on Clauses appended to the Statement of Objects and Reasons in the *Calcutta Gazette* of 1898. Pt. IV. page 571.

of 1899.]

(Powers and Functionaries.—Sections 19, 20.—Provisions as to Orders, Rules, etc., made under Enactments.—Sections 21—23.)

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

19. In any Bengal Act <sup>1</sup>[or West Bengal Act] 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, to express its relation to the functionaries or corporations.

Successors.

20. In any Bengal Act <sup>1</sup>[or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall 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.

Official chiefs and subordinates.

*Provisions as to Orders, Rules, etc., made under Enactments.*

21. Where, by any Bengal Act <sup>1</sup>[or West Bengal Act], a power to issue any order, scheme, rule, bylaw, notification or form is conferred, then expressions used in the order, scheme, rule, bye-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Construction of orders, etc., issued under Bengal Acts or West Bengal Acts.

22. Where, by any Bengal Act <sup>1</sup>[or West Bengal Act], a power to <sup>2</sup>[issue] orders, rules, bye-laws, or notifications is conferred, then, that power includes a power, exerciseable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye-laws or notifications so <sup>3</sup>[issued].

Power to issue to include power to add to, amend, vary or rescind orders, etc.

23. Where, by any Bengal Act <sup>1</sup>[or West Bengal Act], which is not to come into operation <sup>4</sup>[immediately on the passing thereof], a power

Making of rules or bye-laws\*

<sup>1</sup>See foot-note 4 on page 180, *ante*.

<sup>2</sup>This word was substituted for the word "make" by s.7 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

<sup>3</sup>This word was substituted for the word "made" *ibid*.

<sup>4</sup>These words were substituted for the words "on the day on which it is first published in the *Calcutta Gazette* after having received the assent of the Governor General " by para.3 and Sch.IV to the Government of India(Adaptation of Indian Laws) Order, 1937.

\*Marginal note of section 23 *continued* in next page.

(Provisions as to Orders, Rules, etc., made under  
Enactments.—Section 24.)

\*and  
issuing of  
orders  
between  
passing and  
commence-  
ment of  
Bengal Act  
or West  
Bengal Act.

is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, 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.

then that power may be exercised at any time <sup>1</sup>[after the passing of the Act], but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

Provisions  
applicable  
to making  
of rules or  
bye-laws  
after  
previous  
publication.

24. Where, by any Bengal Act <sup>2</sup>[or West Bengal Act], 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:—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the <sup>3</sup>[Government concerned] prescribes ;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

<sup>1</sup>These words were substituted for the words "after the Act has been published as aforesaid" by para. 3 of, and Sch. IV to, the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 4 on page 180, *ante*.

<sup>3</sup>The words "Central Government or, as the case may be, the Provincial Government" were originally substituted for the words "Local Government" by para. 3 of, and Schedule IV to, the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter these words were substituted for the words "Central Government or, as the case may be, the Provincial Government" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

\*Marginal note of section 23—*concluded*.

of 1899.]

(Provisions as to Orders, Rules, etc., made under Enactments.—Section 25.—Miscellaneous.—Sections 26—28.)

(5) the publication in the <sup>1</sup>[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-law has been duly made.

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bengal Act <sup>2</sup>[or West Bengal Act] with or without modification, then, unless it is otherwise expressly provided, any <sup>3</sup>[appointment], order, scheme, rule, bye-law, notification or form <sup>4</sup>[made or] issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been <sup>4</sup>[made or] issue under the provisions so re-enacted, unless and until it is superseded by any <sup>3</sup>[appointment], order, scheme, rule, bye-law, notification or form <sup>4</sup>[made or] issued under the provisions so re-enacted.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

Miscellaneous.

26. Sections 63 to 70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines<sup>5</sup> shall apply to all fines imposed under any Bengal Act <sup>2</sup>[or West Bengal Act] or any rule or bye-law made under any Bengal Act <sup>2</sup>[or West Bengal Act], unless the Act, rule or bye-law contains an express provision to the contrary.

Recovery of fines.

Act XLV of 1860. Act V of 1898.

27. Where an act or omission constitutes an offence<sup>6</sup> 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 liable to be punished twice for the same offence.

Provision as to offences punishable under two or more enactments.

28. Where any Bengal Act <sup>2</sup>[or West Bengal Act], made after the commencement of this Act authorizes or requires any document to be

Meaning of service by post.

<sup>1</sup>These words were substituted for the words "Calcutta Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 4 on page 180. ante.

<sup>3</sup>This word was inserted by s. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

<sup>4</sup>These words were inserted, *ibid.*

<sup>5</sup>See sections 386 to 389 of Act V of 1898.

<sup>6</sup>For definition of "offence", see 3(30), ante.



*(Miscellaneous.—Sections 29—31.)*

served by post, whether the expression “serve” or either of the expressions “give” or “send” or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

29. (1) In any Bengal Act <sup>1</sup>[or West Bengal Act], and in any rule, bye-law, instrument or document made under, or with reference to any Bengal Act <sup>1</sup>[or West Bengal Act], any enactment may be cited by reference to the title or short title (if any)<sup>2</sup> conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act, and in any Bengal Act <sup>1</sup>[or West Bengal Act], made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous Acts, rules and bye-laws.

30. Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or bye-laws.

Application to Eastern Bengal and Assam Acts and Ordinances and Regulations.

<sup>3</sup>31. The provisions of this Act shall apply,—

- (a) in relation to any Eastern Bengal and Assam Acts as in force in West Bengal and any Regulation made by the Governor under section 92 of the Government of India Act, 1935, as they apply in relation to a Bengal Act or West Bengal Act made by the Provincial Legislature, and in relation to any Ordinance promulgated by the Governor of

<sup>1</sup>See foot-note 4 on page 180, *ante*.

<sup>2</sup>Short titles have been conferred on all the enactments printed in the West Bengal Code.

<sup>3</sup>Section 31 was substituted for the former section 31 [which was inserted by para. 3 of, and Sch. IV to, the Government of India (Adaptation of Indian Laws) Order, 1937.] by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

of 1899.]

*(Miscellaneous.—Section 31.)*

Bengal under section 88 or section 89 of the said Act or by the Governor of West Bengal under section 88 of the said Act, as they apply in relation to a Bengal Act made under the said Act by the Governor ; and

- (b) in relation to any Ordinance promulgated by the Governor under article 213 of the Constitution or any Regulation made by the Governor under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to a West Bengal Act made by the State Legislature :

Provided that clause (b) of sub-section 1 of section 6 of this Act shall apply to any Ordinance referred to in clause (b) as if for the reference in the said clause (b) of sub-section (1) to the day of the first publication of the assent to an Act in the *Official Gazette* there were substituted a reference to the day of the first publication of the Ordinance in that *Gazette*.

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