The Jammu and Kashmir General Clauses Act, 1920

Act 20 of 1920

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THE GENERAL CLAUSES ACT, 1977 (1920 A.D.)

Act No. XX of 1977

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Act No. XX of 1977

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with the State Council Resolution No. 1, dated 8th April, 1925 (Notification No. 14-L/81).]

An Act for shortening the language used in Laws in force in the State and for other purposes.

Whereas it is expedient to shorten the language used in laws in force in the State and to make certain provisions relating to such laws; It is hereby enacted as follows:—

Preliminary

1. (1) This Act may be called the General Clauses Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

2. Omitted.

3. Definitions.—In this Act, and in all enactments now in force or hereafter to be introduced, unless there is anything repugnant in the subject or context,—

(1) Abet—"Abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Ranbir Penal Code;

(2) Act "Act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions;
(3) **Affidavit**—"Affidavit", shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(4) Barrister—"Barrister", shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

(5) British India.—"British India" shall mean, as respects the period before the commencement of Part III of the Government of India Act, 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor General of India or through any Governor or officer subordinate to the Governor General of India, and as respects any period after that date and before the date of the establishment of the Dominion of India, means all territories for the time being comprised within the Governor's Provinces and the Chief Commissioner's Provinces, and as respects any period after the date of the establishment of the Dominion of India and promulgation of the Adaptation of Laws Order, 2008, all territories comprised in a State specified in Part A of the First Schedule to the Constitution of India and the States of America, Coorg and Delhi;]

(6) British possession.—"British possession" shall mean any part of His Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession;

(7) Chapter.—"Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs;

((7-a) Repealed;

(8) Collector.—"Collector", shall mean, the Deputy Commissioner of a district;]
(9) Commencement.—"Commencement" used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force;

(10) District Judge.—"District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(11) Document.—"Document" shall include any matter written, 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; if(ll-A) Enactment—"Enactment" shall include any provision contained in any Act;

(12) Father.—"Father", in the case of any one whose personal law permits adoption, shall include an adoptive father;

(13) Financial year.—"Financial year" shall mean the year commencing on the 1st day of April;

(14) Good faith.—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;

3 [(15) Omitted.

4 [(16) Government of India.—"Government of India" shall—

(a) in relation to anything done before the commencement of the Constitution of India, mean the Governor General or the Governor General in Council as the case may be; and
(b) in relation to anything done or to be done after the commencement of the Constitution of India mean the President;

(17) **His Majesty or the King.**—"His Majesty" or "the King" shall include his successors;

(18) Repealed.

(19) **Immovable property.**—"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;

(25) Month.—"Month" shall mean a month reckoned according to the 1 [Gregorian calendar;]

(26) Movable property.—"Movable property" shall mean property of every description, except immovable property; (27) Oath.—"Oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(28) Offence.—"Offence" shall mean any act or omission made punishable by any law for the time being in force;

(29) Part.—"Part" shall mean a Part of the Act or Regulation in which the word occurs;

2[(29-A) Part A, B and C States.—"Part A State" shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, "Part B State" shall mean a State for the time being specified in Part B of that Schedule and "Part C State" shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of article 243 of the Constitution;]
(30) **Person.**—"Person" shall include any company or association or body of individuals, whether incorporated or not;

3 [(31) **Political Agent.**—"Political Agent" shall mean—

(a) in relation to any territory outside India, the Principal officer, by whatever name called representing the Government of India in such territory; and

(b) in relation to any territory within India to which the Indian Act or Regulation containing the expression docs not extend, any officer appointed by the Government of India to exercise all or any of the powers of a Political Agent under that Act or Regulation;]

(32) **Public nuisance.**—"Public nuisance" shall mean a public nuisance as defined in the Ranbir Penal Code;

(33) **Registered.**—"Registered" used with reference to a document, shall mean registered in the State under the law for the time being in force for the registration of documents:

(34) **Rule.**—"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;

(35) **Schedule**—"Schedule" shall mean a schedule to the Act or Regulation in which the word occurs;

(36) **Section**—"Section" shall mean a section of the Act or Regulation in which the word occurs;
(37) **Boat**—"Boat" shall include every description of vessel used in navigation not exclusively propelled by oars;

(38) **Sign**.—"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;

(39) **Son**.—"Son", in the case of any one whose personal law permits adoption, shall include an adopted son;

1[(39-A) The State.—"The State" means the State of Jammu and Kashmir; ]

(40) **Sub-section**.—"Sub-section" shall mean a sub-section of the section in which the word occurs;

(41) **Swear**.—"Swear", with its grammatical variations and cognate expression, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

(42) **Vessel**—"Vessel" shall include any boat or any other description of vessel used in navigation;

(43) **Will**.—"Will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

(44) **A writing**.—Expression 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

(45) **Year**.—"Year" shall mean a year reckoned according to the
General Rules of Construction

5. Coming into operation of enactments.—Where any act is not expressed to come into operation on a particular day it shall come into operation on the day on which the assent thereto of the Governor is published in the Government Gazette.

6. Effect of repeal.—Where this Act, or any 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 or suffered there under; or

(c) affect any right, privilege, obligation or liability 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.
7. Revival of repealed enactments.—In any 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.

8. Construction of references to repealed enactments.—Where this Act, or any Act made after the commencement of this Act, repeals and re-enacts, with or without modification, 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.

9. Commencement and termination of time.—In any 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".

10. Computation of time. — Where, by any 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:

Provided that nothing in this section shall apply to any act or proceeding to which the Limitation Act, applies.

11. Measurement of distances. — In the measurement of any distance, for the purposes of any Act 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.
12. Duty to be taken pro rata in enactments. — Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is livable on any given quantity, by weight, measure or value of any goods or merchandize, then a like duty is livable according to the same rate on any greater or less quantity.

13. Gender and number. — In all Acts and Regulations unless there is anything repugnant in the subject or context, —

(1) words importing the masculine gender shall be taken to include females;

(2) words in the singular shall include the plural, and vice versa. Powers and Functionaries

14. Powers conferred on the Government to be exercisable from time to time.— Where, by any Act made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires.

15. Power to appoint to include powers to appoint ex-officio.—

Where, by any Act or Regulation, 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.

16. Power to appointment to include power to suspend or dismiss.

—Where, by any Act or Regulation 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.

17. **Substitution of functionaries.**—In any 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 mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

18. **Successors.**—In any 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.

19. **Official chiefs and subordinates.**—In any Act made after 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 of the superior.

Provisions M to Orders, Rules, etc., made under Enactment

20. **Construction of orders, etc., issued under enactments.**—

Where by any Act or Regulation, a power to issue any notification, order, scheme, rule, form or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law, 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 or Regulation conferring the power.
21. Power to make, to include power to add to, amend, vary or rescind, orders, rules or bye-laws.—Where, by any Act or Regulation, a power to issue notifications, orders, rules or bye-laws is conferred then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.

22. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.—Where, by any 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 office or the appointment of any Judge or officer there-under, 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 the 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.

23. Provisions applicable to making of rules or bye-laws after previous publication.—Where, by any 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:—

(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 1 [the Government] 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;

(5) the publication in the Government 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.

24. Continuation of orders, etc., issued under enactments repealed and re-enacted. — Where any 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, 2 [rules,] form or bye-law, made or issued under the repealed Act or Regulation shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted and when any Act or Regulation, which, by a notification has been extended to any local area, has, by a subsequent notification, been withdrawn from and 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.

Miscellaneous

25. Recovery of fines.—Sections 63 to 70 of the Ranbir Penal Code and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the
execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

26. Provision as to offences punishable under two or more enactments. —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 liable to be punished twice for the same offence.

27. Meaning of service by post. —Where any Act made after the commencement of this Act authorizes or requires any document to be 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, pre-paying 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.

28. Citation of enactments. —(1) In any Act or Regulation and in any rule, bye-law, instrument or document made under or with reference to any such Act or Regulation any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision is 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 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.
29. Saving for previous enactments, rules and bye-laws.—The provisions of this Act respecting the construction of Acts, rules or bye-law’s made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of the Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, rule or bye-law made after the commencement of this Act.

30. Application of Act to ordinances.—In this Act, the expression Act or Regulation, wherever it occurs, and the word 'Act' in clauses 1[[(1), (9), (29), (35) and (36)] of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by His Highness or the Sadar-i-Riyasat.]

THE JAMMU AND KASHMIR GENERAL SALES TAX ACT, 1962

ACT NO. XX OF 1962

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