

Madhya Pradesh General Clauses Act, 1957

3 of 1958

CONTENTS

1. Short Title And Commencement
2. General Definitions
3. Coming Into Operation Of Madhya Pradesh Acts
4. Marginal Notes Not Part Of Madhya Pradesh Act
5. Gender And Number
6. Commencement And Termination Of Time
7. Computation Of Time
8. Act Done On Public Holiday Not Invalid
9. Measurement Of Distances
10. Effect Of Repeal
- 10A. Effect Of Expiration By Efflux Of Time
11. Repeal Of Enactment Making Textual Amendment In Any Act
12. Revival Of Repealed Enactment
13. Construction Of References To Repealed Enactment
14. Powers Conferred Or Duties Imposed To Be Exercisable Or Performable From Time To Time
15. Power To Appoint To Include Power To Appoint Ex-Officio
16. Power To Appoint To Include Power To Suspend Or Dismiss
17. Substitution Of Functionaries
18. Successors
19. Official Chiefs And Subordinates
20. Construction Of Orders Etc., Issued Under Madhya Pradesh Acts
21. Power To Make, To Include, Power To Add To, Amend, Vary Or Rescind Orders, Etc.
22. Making Of Rules Or Bye-Laws And Issuing Of Orders Between Publication And Commencement Of Madhya Pradesh Act
23. Publication Of Orders And Notifications In The Official Gazette To Be Deemed To Be Due Publication
24. Provisions Applicable To Making Of Rules Or Bye-Laws, Etc., After Previous Publication
- 24A. Laying Of Rules On Table Of Assembly
25. Continuation Of Orders, Etc. Issued Under Enactments Repealed And Re-Enacted
26. Recovery Of Fines
27. Provision As To Offences Punishable Under Two Or More Enactments
28. Meaning Of Service By Post
29. Citation Of Enactments
30. Special Provision In Respect Of Repeals Or Amendments By

Madhya Pradesh General Clauses Act, 1957

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An Act to provide for the construction of Madhya Pradesh Acts and for shortening the language thereof and for certain other matters. Be it enacted by the Madhya Pradesh Legislature in the Eighth Year of the Republic of India as follows : 1. Received the assent of the Governor on the 24-1-1958; assent first published in the Madhya Pradesh Gazette on the 7-2-1958.

1. Short Title And Commencement :-

(1) This Act may be cited as the Madhya Pradesh General Clauses Act, 1957.

(2) This Act shall be deemed to have come into force on the 1st day of November, 1956.

2. General Definitions :-

In this Act and in all Madhya Pradesh enactments, unless there is anything repugnant in the subject or context :--

(1) "abet" with its grammatical variations and cognate expressions, has the same meaning as in the Indian Penal Code (XLV of 1860);

(2) "act" used with reference to an offence of civil wrong, denotes a series of acts as well as a single act, and words which refer to acts done extend also to illegal omissions;

(3) "affidavit" includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(4) "appointed day" means the 1st day of November, 1956;

(5) "chapter" means a chapter of the Act, Ordinance or Regulation in which the word occurs;

(6) "Collector" means the chief officer-in-charge of the revenue administration of a district;

(7) "commencement" used with reference to a Madhya Pradesh Act, means the day on which the enactment comes into force;

(8) "Commissioner" means the chief officer-in-charge of the revenue administration of a division;

(9) "Constitution" means the Constitution of India;

(10) "Consular Officer" includes consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being

authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

(11) "District Judge" means the Judge of a principal Civil Court of original jurisdiction, but does not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(12) "document" includes any matter written, expressed, inscribed 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 purposes of recording that matter;

(13) "enactment" includes--

(i) a Regulation or an Ordinance as hereinafter defined; and

(ii) also any provision contained in any Act or in any such Regulation or Ordinance as aforesaid;

(14) "father" in the case of any one whose personal law permits adoption, includes an adoptive father;

(15) "financial year" means the year commencing on the first day of April;

(16) "Governor" means the Governor of the State of Madhya Pradesh;

(17) "High Court" means the High Court of Madhya Pradesh;

(18) "immovable property" includes land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth;

(19) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code (XLV of 1860);

(20) "local authority" means a municipal corporation, municipality, local board, janapad sabha, village pahchayat, or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund;

(21) "Madhya Pradesh Act" means--

(a) an Act made after the appointed day by the Legislature of the State of Madhya Pradesh under the Constitution; or

(b) a law made after the date in exercise of the power of the Legislature of the State--

(i) by Parliament;

(ii) by the President or any other authority referred to in sub-clause (a) of Clause (1) of Article 357, under the Constitution.

(22) "Magistrate" includes every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1898 (V of 1898), for the time being in force;

(23) "month" means a month reckoned according to the British

calendar;

(24) "Movable property" means property of every description, except immovable property;

(25) "notification" means a notification published in the Gazette;

(26) "oath" includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(27) "offence" means any act or omission made punishable by any law for the time being in force;

(28) "Official Gazette" or "Gazette" means the Official Gazette of the State of Madhya Pradesh;

(29) "Ordinance" means an Ordinance promulgated after the appointed day by the Governor under Article 213 of the Constitution;

(30) "Part" means a part of the Madhya Pradesh Act or Regulation in which the word occurs;

(31) "person" includes any company or association or body of individuals, whether incorporated or not;

(32) "prescribed" means prescribed by rules made under an enactment;

(33) "public nuisance" means a public nuisance as defined in the Indian Penal Code (XLV of 1860);

(34) "registered" used with reference to a document, means registered in a State or Union territory under the law for the time being in force for the registration of documents;

(35) "Regulation" means a Regulation made after the appointed day by the Governor under Paragraph 5 of the Fifth Schedule to the Constitution;

(36) "rule" means a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;

(37) "schedule" means a schedule to the enactment in which the word occurs;

(38) "section" means a section of the enactment in which the word occurs;

(39) "sign" with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes "mark with its grammatical variations and cognate expressions";

(40) "son" in the case of any one whose personal law permits adoption, includes an adopted son;

(41) "State of Madhya Pradesh" or "the State" means the State of Madhya Pradesh specified in the First Schedule to the Constitution;

(42) "State Government" or "Government" means the Government of the State of Madhya Pradesh;

(43) "sub-section" means a sub-section of the section in which the word occurs;

(44) "swear with its grammatical variations and cognate expressions includes affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

(45) "vessel" includes any ship or boat or any other description of vessel used in navigation;

(46) "will" includes codicil and every writing making a voluntary posthumous disposition of property;

(47) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other means of representing or reproducing words or figures in a visible form on any substance;

(48) "year" means a year reckoned according to the British calendar;

(49) the expression :--

(a) "Mahakoshal region" means the territories comprised immediately before the appointed day within the districts of Jabalpur, Sagar, Damoh, Mandla, Hoshangabad, Narsimhapur, Chhindwara, Seoni, Betul, Nimar, Raipur, Bilaspur, Durg, Bastar, Sarguja, Raigarh and Balaghat;

(b) "Madhya Bharat region" means the territories which immediately before the appointed day were comprised in the Part B State of Madhya Bharat but excluding the area comprised within Sunel Tappa of Bhanpura Tahsil of Mandsaur District² [and shall with effect from the 1st October, 1959 be deemed to include the territories specified in the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959 (No. 47 of 1959);]

(c) "Vindhya Pradesh region" means the territories which immediately before the appointed day were comprised in the Part C State of Vindhya Pradesh;

(d) "Bhopal region" means the territories which immediately before the appointed day were comprised in the Part C State of Bhopal.

(e) "Sironj region" means the area comprised within the Sironj sub-division of the Kotah district in the State of Rajasthan as existing immediately before the appointed day.

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

2. Inserted by Section 2 of M.P. Act No. 6 of 1960.

3. Coming Into Operation Of Madhya Pradesh Acts :-

(1) Where any Madhya Pradesh Act is not expressed to come into operation on a particular day, then, it shall come into force if it is an Act of the Legislature, 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.

(2) Unless the contrary intention is expressed, a Madhya Pradesh Act shall be construed as coming into force immediately on the expiration of the day preceding its commencement.

4. Marginal Notes Not Part Of Madhya Pradesh Act :-

The marginal note appearing against any section of Madhya Pradesh Act and the reference to the number and date of any former law cited by its short title in any such section shall not form part of the said Act.

5. Gender And Number :-

In all Madhya Pradesh Acts, unless a different intention appears :--

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

(b) words in the singular shall include the plural, and words in the plural shall include the singular.

6. Commencement And Termination Of Time :-

In any Madhya Pradesh Act, it shall be sufficient, for the purpose of excluding the first of 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".

7. Computation Of Time :-

Where, by any Madhya Pradesh 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 specified period, then if the Court or Office is closed on that day or the last day of the specified 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 on which the Court or Office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1908 (IX of 1908)

applies.

1. See now the Limitation Act, 1963 (No. 36 of 1963).

8. Act Done On Public Holiday Not Invalid :-

Any act done by any authority, whether judicial or executive on a day which is a public holiday shall not be invalid by reason only of its having been done on that day.

9. Measurement Of Distances :-

In the measurement of any distance for the purpose of any Madhya Pradesh Act that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

10. Effect Of Repeal :-

1[REPEAL AND EXPIRATION OF ENACTMENTS]

10. Effect of repeal.--

Where any Madhya Pradesh Act repeals any enactment 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 Madhya Pradesh Act had not been passed.

1. Substituted by Section 3 of Madhya Pradesh Act No. 6 of 1960.

10A. Effect Of Expiration By Efflux Of Time :-

Where any Madhya Pradesh Act which is to be in operation for a specified period ceases to have effect on the expiration of the period of operation fixed in respect thereof, then, unless a different intention appears, the provisions of Section 10

shall apply in respect of such expiration as if the expiring Act were repealed on the date of its expiration.]

1. Inserted by Section 4 of Madhya Pradesh Act No. 6 of 1960.

11. Repeal Of Enactment Making Textual Amendment In Any Act :-

Where any Madhya Pradesh Act repeals any enactment by which the text of any such previous 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.

12. Revival Of Repealed Enactment :-

In any Madhya Pradesh 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.

13. Construction Of References To Repealed Enactment :-

Where any Madhya Pradesh 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.

14. Powers Conferred Or Duties Imposed To Be Exercisable Or Performable From Time To Time :-

Where, by any enactment, any power is conferred or a duty is imposed, then unless a different intention appears, that power may be exercised and that duty shall be performed from time to time, as occasion requires.

15. Power To Appoint To Include Power To Appoint Ex-Officio :-

Where, by any enactment, 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 may be made either by name or by virtue of office.

16. Power To Appoint To Include Power To Suspend Or

Dismiss :-

Where, by any enactment, a power to make any appointment is conferred, then unless a different intention appears, the authority for the time being 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 enactment it shall be sufficient, for the purpose of indicating the application of the 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 enactment 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 enactment 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 duties of the superior.

20. Construction Of Orders Etc., Issued Under Madhya Pradesh Acts :-

Where, in any Madhya Pradesh Act, 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, shall, unless a different intention appears, have the same respective meanings as in the Act conferring the power.

21. Power To Make, To Include, Power To Add To, Amend, Vary Or Rescind Orders, Etc. :-

Where, by any Madhya Pradesh Act, a power to issue notification,

orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanctions 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 Publication And Commencement Of Madhya Pradesh Act :-

Where, by any Madhya Pradesh Act 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 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 which, the time when, or the place where, or the manner in which, or the fees for anything is to be done under the Act, then that power may be exercised at any time 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:

Provided that when all the provisions contained in any such Act do not come into force simultaneously, the rules, bye-laws or orders so made or issued shall not take effect till the commencement of the provisions with respect to which they are so made or issued.

23. Publication Of Orders And Notifications In The Official Gazette To Be Deemed To Be Due Publication :-

Where, in any Madhya Pradesh Act or any rule made under any such Act, it is directed that any order, notification or other matter shall be notified, or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the Official Gazette.

24. Provisions Applicable To Making Of Rules Or Bye-Laws, Etc., After Previous Publication :-

Where, by any Madhya Pradesh Act, a power to make rules or bye-laws is expressed to be given subject to the conditions of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely :--

(a) 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 effected thereby;

(b) 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 Government prescribes;

(c) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(d) 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;

(e) 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.

24A. Laying Of Rules On Table Of Assembly :-

Where, in any Madhya Pradesh Act, it is directed that a rule shall be laid on the table of the Legislative Assembly, then such rule shall be laid, as soon as may be after it is made, before the Legislative Assembly for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which the said period expires the Legislative Assembly adopts a resolution that such a rule should not be made or that any modification be made therein, the rule shall thereafter be of no effect or have effect only in the modified form, as the case may be :

Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Inserted by Section 5 of Madhya Pradesh Act No. 6 of 1960.

25. Continuation Of Orders, Etc. Issued Under Enactments Repealed And Re-Enacted :-

Where any enactment is repealed and re-enacted by a Madhya Pradesh Act with or without modification then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, regulation, form or bye-law 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 made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, regulation, form or bye-law made or issued under the provisions so re-enacted.

26. Recovery Of Fines :-

Sections 63 to 70 of the Indian Penal Code (XLV of 1860) and the provisions of the Code of Criminal Procedure, 1898 (V of 1898) in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Madhya Pradesh Act or any rule or bye-law made under any Madhya Pradesh Act, unless the Act, rule or bye-law, contains an express provision to the contrary.

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

27. 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 prosecuted and punished twice for the same offence.

28. Meaning Of Service By Post :-

Where any Madhya Pradesh Act authorises 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, preparing 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.

29. Citation Of Enactments :-

(1) In any Madhya Pradesh Act, and in any rule, bye-law, instrument or document made under or with reference to any Madhya Pradesh Act, 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 in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) Any such citation of, or reference to, any enactment shall, unless a different intention appears, be deemed to be a citation of, or reference to, such enactment.

(3) In this Act, and in any Madhya Pradesh 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.

30. Special Provision In Respect Of Repeals Or Amendments By Madhya Pradesh Act :-

Where after commencement of this Act, any Madhya Pradesh Act, Madhya Bharat Act, Vindhya Pradesh Ordinance, Vindhya Pradesh Act, Bhopal Act or Rajasthan law is repealed or amended then, notwithstanding anything contained in the foregoing provisions of this Act, the provisions of--

- (1) The C.P and Berar General Clauses Act, 1914 (I of 1914);
- (2) The Madhya Bharat General Clauses Act, 1950 (84 of 1950);
- (3) The Vindhya Pradesh General Clauses Act, 1953 (VI of 1953);
- (4) The Bhopal General Clauses Act, 1931 (III of 1931); or
- (5) The Rajasthan General Clauses Act, 1955 (8 of 1955);

as the case may be, shall, unless otherwise expressly provided in the Repealing or Amending Act, apply to such repeal or amendment as if such repeal or amendment were made by a Madhya Pradesh Act, Madhya Bharat Act, Vindhya Pradesh Ordinance, Vindhya Pradesh Act, Bhopal Act or Rajasthan Law, as the case may be.

Explanation.--

For the purposes of this section--

- (a) "Madhya Pradesh Act" means a Madhya Pradesh Act as defined in the Central Provinces and Berar General Clauses Act, 1914 (I of 1914) and in force in the Mahakoshal Region on the appointed day;
- (b) "Madhya Bharat Act" means a Madhya Bharat Act as defined in the Madhya Bharat General Clauses Act, 1950 (84 of 1950) and in force in the Madhya Bharat Region on the appointed day;
- (c) "Vindhya Pradesh Ordinance" means a Vindhya Pradesh Ordinance as in force in the Vindhya Pradesh Region on the appointed day;
- (d) "Vindhya Pradesh Act" means a Vindhya Pradesh Act as defined in the Vindhya Pradesh General Clauses Act, 1953 (VI of 1953) and in force in the Vindhya Pradesh Region on the appointed day;
- (e) "Bhopal Act" means a Bhopal Act as defined in the Bhopal General Clauses Act, 1931 (III of 1931) and in force in the Bhopal Region on the appointed day;

(f) "Rajasthan Law" means a Rajasthan Law as defined in the Rajasthan General Clauses Act, 1955 (8 of 1955) and in force in the Sironj Region on the appointed day.

31. Application Of Act To Ordinances And Regulations :-

The provisions of this Act shall apply, unless there is anything repugnant in the subject or context--

(a) to any Ordinance or Regulation as they apply in relation to Madhya Pradesh Acts :

Provided that sub-section (1) of Section 3 of this Act shall apply to any Ordinance or Regulation as if for the reference in the said 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 or the Regulation, as the case may be, in that Gazette;

(b) to the construction of rules, regulations, bye-laws, orders, notifications, schemes or forms made or issued under a Madhya Pradesh Act.