

HYDERABAD GENERAL CLAUSES ACT, 1308

3 of 1308

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CONTENTS

1. Short title, extent and commencement
2. Definitions
- 2A. .
3. Unless a different intention appears
4. Construction of references to repealed enactments
5. Commencement and termination of time
6. Computation of time
7. Measurement of distances
8. Duty to be taken pro rata in enactment
9. Powers conferred shall be exercisable from time to time
10. Power to appoint includes power to appoint ex-officio
11. Exercise of powers in case of transfer from one office to another
12. Power to appoint includes power to suspend or dismiss
13. Substitution of functionaries
14. Successors
15. Power to make rules, etc., includes power to add, vary or rescind them
16. Making and issuing of rules, etc., between passing and enforcement of enactments
17. Provisions to make rules, etc., after previous publication
18. Construction of Orders etc., issued under enactments.
19. Continuation of rules, etc., issued under enactments repealed
20. Recovery of fines
21. Provision as to offence punishable under two or more enactments
22. Citation of enactments
23. Appeal against orders of punishment
24. .

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3 of 1308

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WHEREAS it is expedient to have brevity in the text used in the laws made by the Legislative Council in H.H. the Nizam's

Dominions, and to make certain provisions for the construction and application thereof; It is hereby enacted as follows

1. Short title, extent and commencement :-

This Act may be called "The General Clauses Act" and shall come into force at once in [the Hyderabad area of the State of 1[Maharashtra] For comments, see Bombay General clauses Act, Section 9.

2. Definitions :-

¹[In this Act, and in all Hyderabad laws as defined in clause (1a), unless there is anything repugnant in the subject or context,

(1) "Constitution", means the Constitution of India ; (1a) "Hyderabad law" means

(i) an Act of the Legislature established for the pre- Reorganization Hyderabad State by the Constitution including an Act made under Article 385 thereof;

(ii) An Act made before the commencement of the Constitution by the Legislative Council or the Legislative Assembly in existence in the 3pre-Reorganisation Hyderabad State at the time of making of the Act;

(iii) a Regulation including an A' in made by H.E.H. the Nizam before the 18th day of September 1948; and

(iv) a Regulation made by H.E.H., the Nizam, the Military Governor or the Chief Minister of the pre- Reorganisation Hyderabad State on or after the said date but before the commencement of the Constitution;

Explanation In this Act and in all Hyderabad laws whose authoritative text is in Urdu, the Urdu expression "Qanoon" shall be deemed to have the meaning assigned to "Hyderabad law" in this clause;]

(2) the word "part" when used with respect to any Act shall mean a part of the Act in which the word is used;

(3) the word "Chapter" when used with respect to any Act shall mean a chapter of the Act in which the word is used;

(4) the word "Section" when used with respect to any Act shall mean a part of the section of the Act in which the word is used;

(5) the word "Sub-section" when used with respect to any Act shall mean a part of the sub-section of the section in which the word is used;

(6) the word "Schedule" shall mean a Schedule to the Act in which the word is used;

(7)

(i) "pre-Reorganisation Hyderabad State" shall mean

(a) as respects any period after the commencement of the Constitution, the territory comprised in the Indian State of Hyderabad ;

(b) as respects any period after the commencement of the Constitution, the territories of the State of Hyderabad as specified in Part B of the First Schedule to the Constitution before the commencement of the States Reorganisation Act, 1956 (Central Act XXXVII of 1956);

Explanation In all Hyderabad laws whose authoritative text is in Urdu, the Urdu expression "Mumalik-i-Mahroosa-i-Sarkar-i-Aali" (H.E.H. the Nizam's Dominions), and in all Hyderabad laws whose authoritative text is in English, any reference to "the Hyderabad State" or "the State of Hyderabad", shall be deemed to be references to the pre-Reorganisation Hyderabad State;

(ii) "Hyderabad area of the State of ²[Maharashtra]" means the territories transferred from the pre-Reorganisation Hyderabad State to the new State of ²[Maharashtra] under Section 8 of the States Reorganisation Act, 1956 (Central Act XXXVII of 1956);"

4

[(7-A) the word "Balda" shall mean the city of Hyderabad and shall also include suburbs;]

(8) the word "district" shall also extend to the city and suburbs; and the Board of Revenue, or any authority whom the Government may appoint shall exercise the powers of a District ⁵[Collector] for the city and suburbs;

[(9) "Government" means the State Government as defined in clause (60) of Section 3 of the General Clauses Act, 1897 (Central Act X of 1897);

Explanation In all Hyderabad laws whose authoritative text is in Urdu, any reference in Urdu to "Sarkar-i-Aali" shall be deemed to be a reference to Government;]

(10) "Principal Revenue Department" shall mean the Board of Revenue, or the department vested with powers of the Board of Revenue, in reference to which the words "Principal Revenue Department" are used ;

6

[(10A) "Commissioner" shall mean the Commissioner of a division appointed under the Hyderabad Land Revenue Act;]

(11) the words "Local Authority" shall mean a municipal committee, local fund committee, or such other committee which may be entitled to expend and control any local income according to law ;

7

[(12) "Collector" means the Chief Officer incharge of the revenue administration of a district;

Explanation In all Hyderabad laws whose authoritative text is in Urdu, the Urdu expression "Talukdari" or "Awwal Talukdar" (first Talukdar) shall be deemed to be a reference to Collector ;]

(13) "District Court", shall mean the principal Court of original jurisdiction in a district;

6

[(14) "Magistrate" shall include every person exercising all or any of the powers of the Magistrate under the Code of Criminal Procedure, 1898 (Central Act V of 1898), for the time being in force ;

(15) "Official Gazette" means the Government Gazette which is published under the order of the Government;

Explanation In all Hyderabad laws for the time being in force, any references to "Jarida", "Jarida Alamia" or "Jarida Alamia Sarkari-i-Aali", shall be deemed to be references to the Official Gazette ;]

(16) the word "Notification" shall mean a notification published in the [Official Gazette] by a lawful order ;

9

[(16-A) the word "Order" shall mean an order given by a

Government servant in exercise of any power vested in him by any law ;]

(17) the word "Rule" shall mean a rule made in accordance with the power conferred by any law ;

7

[(17-A) the words "Government Servant" shall include every person who receives a monthly pay or remuneration from the "Government, or who

Explanation 1 : Railway employees, members and servants of municipal committees shall also be considered as Government servants;

Explanation 2 : Wherever the expression "Government Servant" occurs, it applies to every person who is virtually holding the office of a Government servant, whatever defect there might be in his right to hold that post;

11

[(17-B) the words "act of a Government servant" shall mean an act which he may do in the official capacity ;]

(18) the words " order of a Government servant" shall mean only the order made by a Government servant in the exercise of his official powers virtually vested in him or which he believes in good faith to vest in him and has not been cancelled by any other order;

(19) the word "power" means a legal power;

8

[(19-A) the word "property" shall extend to both immovable and movable;]

(20) the words "immovable property" shall include land, rights of benefits arising out of land and all things attached to the earth, or permanently fastened to any thing attached to the earth so long as it is thus attached or fastened;

(21) the words "movable property" shall mean property of every description other than immovable property ;

8

[(21-A) the word "goods" shall not extend to immovable property

;]

14

[(22) "rupee" means a rupee in I.G. currency and fractional denominations of a rupees shall be construed accordingly ;]

(23) the word "writing" and the expression including the word "writing" shall include impression of every kind and every mode by which words are represented on any material substance ;

(24) the word "signature" and the expression including the word "signature" shall, when used with respect to any person who is unable to write his name, include the mark of his seal, or any other "mark" ;

(25) the word "document" shall include any matter recorded in writing by such means as are intended to be used or which may be used, for the purpose of recording that matter ;

15

[(25-A) the wrpds "valuable security" shall mean a document which is or purports to be a document whereby any legal right is created, extended, transferred, restricted, extinguished or released or whereby any person acknowledges that he is legally liable or that a certain legal right does not belong to him;]

10

[(25-B) the word "bond" shall also include a document whereby a person promised to another to make payment of money on condition that, if a particular act is done or a particular act is not done, the said promise shall become void;]

"Will."

(26) the word "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

17

[26-A) "registered", used with reference to a document, shall mean in relation to any period before the first day of November, 1956, registered in the pre-Reorganisation Hyderabad State , and in relation to any period commencing on or after that day, registered in the area to which this Act extends ;]

(27) the word "oath" shall include affirmation and every declaration

of the person by law allowed to affirm or declare instead of swearing ;

11

[(28) the word "affidavit" means the statement made in writing and certified by oath before an officer of a Court or other authority ;]

(29) the word "act" when used with respect to an offence or wrong for which a suit for damages can be instituted, shall include a series of acts; and words which refer to acts done shall also extend to illegal omissions ;

(30) the word "offence" shall mean any act or omission made punishable under any law by a Criminal Court;

(31) the word "abet" and its derivatives shall be used in the same meaning as in the 15[Indian Penal Code, 1860 (Central Act XLV of 1860)];

(32) the word "illegal" applies to everything which is an offence or which is prohibited by law, or which forms a ground for a civil action ;

(33) the word "legally beyond to do" may be used in respect of a person when its omission by him is illegal;

(34) the word "injury" means every kind of damage illegally caused to any person in body, mind, reputation or goods ;

(35) the words "public nuisance" shall mean a public nuisance as defined in the 15[Indian Penal Code, 1860 (Central Act XLV of 1860)];

(36) an act shall be deemed "to be done in good faith" also in the case where it is in fact done in good faith even though it is done negligently ;

(37) the word "imprisonment shall include both rigorous imprisonment and simple imprisonment;

19

[(38) "Financial year","month" and "year" shall have the meaning respectively assigned to them in clauses (21), (35) and (66) of Section 3 of the General Clauses Act, 1897 (Central Act X of 1897)];

(39)²⁰[* * * * *]

(40) the words importing the singular number shall also extend to the plural number ;

(41) the words importing the masculine gender shall also extend to the feminine gender;

(42) the word "public" extends to every community of public or class of people ;

(43) the word "person" shall include any company or association or body of persons, whether incorporated or not;

21

[(43-A) the word "minor" means a person the eighteenth year of whose age has not been completed ;]

(44) the word "father" shall include every such person in whose personal law adoption is permitted and who has adopted ;

(45) the word "son" shall include every such person in whose personal law adoption is permitted and who has been adopted ;

14

[(45-A) the word "cattle" shall include elephant, camel, bullock, buffalo, horse, pony, mule, ass, pig, ram and goat;]

(46) the word "vessel" shall include every ship or boat, or other description of vessels which may be used in navigation ;

1. Substituted by A. O. 1956.
2. Substituted by A. O. 1960.
4. As amended by Act No. VI of 1310-F.
5. Substituted by A. O. 1956.
6. Added by Bom. VIII of 1958.
7. Substituted by A.O. 1956.
9. As amended by Act No. VI of 1310-F.
11. As amended by Act No. VI of 1310-F.
14. As amended by Act No. I of 1953, Published in Gazette Extraordinary No. 47, dated 1st April, 1953.
15. As amended by Act No. VI of 1310-F.
17. Substituted by A. O. 1956.
19. Substituted by A. O. 1956.
20. Clause (39) omitted by A. O. 1956.
21. As amended by Act No. VI of 1310-F.

2A. . :-

1 (* ****●)

1. Section 2-A was omitted by A. O. 1956.

3. Unless a different intention appears :-

(1) every Act shall extend to the whole of the ¹[the area to which this Act extends];

(2) Every Act shall come into operation after one month from the date of publication thereof in the ² [Official Gazette];

(3) When an Act comes into operation all those enactments and parts of enactments shall be repealed the subject of which has been merely repealed in, or is absolutely contradictory to that Act;

(4) By a repeal of any Act the enactments and orders which might have been repealed thereby shall not come into operation ;

(5) A repeal of any Act shall not affect

(a) the previous operation of any repealed enactment or anything established by that enactment or duly done ; or

(b) any right, privilege, obligation or liability accrued or incurred under any repealed enactment; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any repealed enactment; or

(d) 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 shall be instituted, continued or enforced, and any such penalty, forfeiture or punishment shall be so imposed as if the enactment had not been repealed.]

1. Substituted by A. O. 1956.

2. Substituted by A. O. 1956.

4. Construction of references to repealed enactments :-

Where any provision of an Act is repealed and it is re-enacted in the repealing Act without any change in the objective, the references in any other enactment or instrument in respect of the provision so repealed shall, (unless a different intention appears) be the reference in respect of the provision so re-enacted.

5. Commencement and termination of time :-

(1) If any period of ¹ [time] is mentioned the day from which it is stated to commence shall not be included in the time but the day upto which it is stated to last shall be included therein ;

(2) If any amount or quantity is mentioned, it shall include the highest limit expressed therein.

1. As amended by Act No. VI of 1310-F.

6. Computation of time :-

Where, by any Act, an Act or proceeding is done, or allowed in any Court or office on a certain date or within a prescribed period, then, if the said Court or office is closed on that date or on the last day of the prescribed period, the act or proceeding shall be considered as done or taken on the due date or in due time if it is done on the ¹ [day] on which the said Court or office is open. For comments, see Bombay General Clauses Act, Section 11.

1. As amended by Act No. VI of 1310-F.

7. Measurement of distances :-

Measurement of a distance for the purposes of any Act shall, unless a different intention appears, be made in a straight line on a plan. Analogous law : Section 12, Bombay General Clauses Act, 1904.

8. Duty to be taken pro rata in enactment :-

Where, by any Act, any duty of [* * *] excise or in the nature thereof is leviable on a certain quantity, by weight, measure or value, of grains or merchandise then a like duty shall, unless a different intention appears, be leviable at the same rate in proportion to the quantity. Powers and Functionaries

9. Powers conferred shall be exercisable from time to time :-

Where, by any Act, any power is conferred, that power may be exercised from time to time as occasion requires, For comments, see Bombay General Clauses Act, Section 14

10. Power to appoint includes power to appoint ex-officio :-

Where, by any Act, a power to confer any authority or to make an appointment to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, such authority may be given, or such appointment may be made, either by name or by virtue of office; and every such authority or appointment shall take effect from the date on which intimation thereof reaches the person appointed and, where the appointment is made by notification in

the [Official Gazette] from the date of its publication in the [Official Gazette].

[Explanation The power to confer authority includes the power to cancel or modify authority conferred.]

11. Exercise of powers in case of transfer from one office to another :-

Where any Government servant is invested with powers within an area of land, and is transferred to any other office of a like nature either equal to, or higher than the office aforesaid, then unless it is otherwise directed, the said person may exercise the same powers in the area of land to which he is transferred.

12. Power to appoint includes power to suspend or dismiss :-

Where, by any Act, a power to make any appointment is conferred on any officer, then, unless it is otherwise expressly provided, he shall also have power to suspend or dismiss any person appointed in exercise of that power.

13. Substitution of functionaries :-

In any Act, it shall be sufficient, for the purpose of indicating that a law relates to every person or persons for the time being exercising the powers in an office, to mention the destination of the officer at the time or generally exercising the said powers.

14. Successors :-

The law which applies to any officer shall also apply to the successors of that officer and such of his deputies and subordinates, as may be lawfully discharging the duties of that officer.

15. Power to make rules, etc., includes power to add, vary or rescind them :-

Where, by any Act, a power to make orders, rules or forms is conferred, then, such power shall be exercised in accordance with the provisions of that Act, and the rules made shall be published in the 25[Official Gazette] and, on the publication, shall have the force of law; and the aforesaid powers shall also include the power to add, to vary or rescind the orders, rules or forms made thereunder in such manner and subject to such restrictions and conditions as may be laid down in that Act.

16. Making and issuing of rules, etc., between passing and

enforcement of enactments :-

Where, by any Act, which is not to come into operation immediately on the passing thereof, a power is conferred to make rules or to issue orders, with respect to the application of the relevant Act, or with respect to the appointment of any Judge or officer or with respect to the establishment of a Court or officer, 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 after the passing of the Act; but rules, or orders so made and issued shall not take effect till the commencement of the Act.

17. Provisions to make rules, etc., after previous publication :-

Where by any Act, a power to make rules is given subject to the condition of rules being made after previous publication, then, unless a contrary intention appears, the following provisions shall apply :

- (1) the authority having power to make the rules shall, before finally making them, publish a draft of the proposed rules in the ¹ [Official Gazette];
- (2) there shall be published with the draft a notification for a date after which the draft will be taken into consideration; and that date shall not be within one month from the date of publication of the notification ;
- (3) the authority having power to make the rules, and where the rules are to be made with the sanction, approval or concurrence of another authority, the another authority also, shall consider any objections and opinions which may be received by the authority having power to make the rules from any person with respect to the draft before that date fixed; but no person shall be allowed to make an objection to the effect that a certain objection of opinion has not been considered.

1. Substituted by A. O. 1956.

18. Construction of Orders etc., issued under enactments. :-

Where, by any Act, a power", to issue orders, rules or forms is, conferred, then expression in such orders, rules or forms shall, unless there is' anything repugnant in this subject or context, be taken to have the same meanings as in the Act.

19. Continuation of rules, etc., issued under enactments repealed :-

Where any Act is repealed and is enforced as a new Act with or without modification, then, unless it is otherwise expressly provided, any order, rule or form issued under the repealed Act shall, so far as it is not inconsistent with the provisions of the new Act, continue in force, and be deemed to have been issued thereunder, unless and until it is repealed by any order, rule, form or procedure issued under the new Act.

20. Recovery of fines :-

The provisions of the [Indian Penal code, 1860 (Central Act XLV of 1860)] and the 26[Code of Criminal Procedure, 1898 (Central Act V of 1898)] relating to fines shall apply to all fines imposed under any Act or rule unless the Act or rule contains an express provision to the contrary.

21. Provision as to offence punishable under two or more enactments :-

Where an act is an offence under two or more enactments, then the offender shall be liable to be punished under any of those Acts; but shall not be liable to be punished separately under the two Acts for the same offence.

22. Citation of enactments :-

(1) Where any Act is to be cited, it may be cited with its short title or its number and year.

(2) When a certain provision of an Act is cited, it may be cited by reference to the section and sub-section in which the provision is contained.

(3) Where any portion of an Act is cited, the citation shall, unless a contrary intention appears, be deemed to include the words in the beginning and end of that portion.

23. Appeal against orders of punishment :-

Appeal against orders of punishment passed by the Court or departmentally shall unless it is otherwise provided, lie to the department immediately superior to the department imposing the punishment.

24. . :-

(Omitted)

