

Uttar Pradesh General Clauses Act, 1904

1 of 1904

[28 November 1903]

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SCHEDULE 1 :- THE SCHEDULE

Uttar Pradesh General Clauses Act, 1904

1 of 1904

[28 November 1903]

An Act to consolidate and extend the 3[Uttar Pradesh] General Clauses Acts, 1887 and 1896. Whereas it is expedient to consolidate and extend the 3[Uttar Pradesh] General Clauses Acts, 1887 and 1896; It is hereby enacted as follows : 1. Received the assent of the Lieutenant-Governor on the 28th November, 1903, and of the Governor General on the 7th January, 1904, see Gazette 1904, Pt. V, pp. 1-12 and was published under Section 40 of the Indian Councils Act, 1861, on the 23rd January, 1904. 2. For S. O. R. see Gazette 1903, Pt. V at 46 3. Substituted by Section 2 of U. P. Act No. 54 of 1975.

1. Short Title And Commencement :-

(1) this Act may be called the 1[Uttar Pradesh] General Clauses Act, 1904; and

(2) It shall come into force at once.

1. Substituted by Section 2 of U. P. Act No. 54 of 1975.

2. Repeal :-

1[* * *]

1. Omitted by Section 3 of U.P. Act 54 of 1954 (w.e.f. 21.10.1975).

3. Application Of Act To Other Enactments :-

1[(1) The provisions of this Act shall apply to this Act and to all Uttar Pradesh Acts, whether made before or after the commencement of this Act.

(2) The provisions of this Act in their application to any enactment or statutory instrument shall be subject to any contrary requirements of the context of the enactment or instrument that is to be interpreted.]

1. Amended by A.O. 1950 and substituted by U. P. Act 54 of 1975, Section 4 (w.e.f. 21-10-1975).

CHAPTER 2

GENERAL DEFINITIONS

4. Definitions :-

In all 1[Uttar Pradesh] Acts, 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 Indian 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) "Agra"--"Agra" shall mean the territories known as the 2[North-Western Provinces] previously to the 2nd day of March, 1902;

3[(4-A) "Agricultural year" shall mean the year commencing on the

first day of July;]

(5) "Assistant Collector"--"Assistant Collector" shall include an Assistant Commissioner;

(6) "Barrister"--"Barrister" shall mean barrister of England or Ireland, or a member of the Faculty of the advocates in Scotland;

(7) "Board of Revenue"--"Board of Revenue" shall mean the Board of Revenue for 1[Uttar Pradesh];

4[(7-A) "Central Act" shall have the same meaning as in the General Clauses Act, 1897.

(7-B) "Central Government" shall have the same meaning as in the General Clauses Act, 1897;]

(8) "Chapter"--"Chapter" shall mean a Chapter of the Act in which the word occurs;

5[(8-A) "clause" shall mean a sub-division (not being a sub-section) of the section or sub-section in which the word occurs;]

(9) "Collector"--"Collector" shall mean the chief officer incharge of the revenue administration of a district, and shall include a Deputy Commissioner and the Superintendent, Dehra Dun;

(10) "Commencement"--"Commencement", used with reference to an Act, shall mean the day on which the Act comes into forces;

(11) "Commissioner"--"Commissioner" shall mean the chief officer incharge of the revenue administration of a division;

6[(11-A) "Constitution" shall mean the Constitution of India;

(11-B) "daughter" in the case of any person the law applicable to whom permits the adoption of a daughter, shall include an adopted daughter;

(11-C) "day" shall mean a period of twenty-four hours beginning at midnight;]

(12) "District Judge" "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;

7[(12-A) District Magistrate" shall mean a person appointed as such under sub-section (1) of Section 20 of the Code of Criminal Procedure, 1973 and shall include the Deputy Commissioner of a District;]

(13) "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;

(14) "Enactment"--"Enactment" shall include a Regulation (as

hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provisions contained in any Act or in any such Regulation as aforesaid;

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

(16) "Financial year"--"Financial year" shall mean the year commencing on the first day of April;

(17) "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;

(18) "Gazette"--"Gazette" shall mean the official Gazette for 8[Uttar Pradesh];

9[(19) "goods" shall include all materials, commodities and articles, and shall also include electricity;

(19-A) "Government" shall include the Central Government and any State Government;

(19-B) "Government securities" shall mean securities of the Central Government or of any State Government;

(19-C) "the Governor" shall mean the Governor of Uttar Pradesh;]

(20) "Growing crops"--"Growing crops" shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs;

10[(21) "the High Court " or "the High Court of judicature at Allahabad" shall mean the High Court for Uttar Pradesh;]

(22) "His Majesty" or "the King"--11[* * *]

(23) "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, but shall not include standing timber, growing crops or grass;

(24) "Imprisonment"--"imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

12[(24-A) "legal representative" shall have the same meaning as in the Code of Civil Procedure, 1908;]

13[(25) "local authority" shall mean a municipal board or Nagarpalika, Nagar Mahapalika, notified area committee, town area committee, Zila Parishad, cantonment board, kshettra samiti, gaon sabha or any other authority constituted for the purpose of local self-government or village administration or legally entitled to or entrusted by the State Government with the control or management of municipal or local fund;

(26) "local fund" shall mean revenues administered by a body which by law or rule having the force of law is controlled by the

State Government, whether in regard to the proceedings generally or to specific matters such as the sanctioning of its budget, sanction to the creation or filling up of particular posts, the making of leave, pension or other rules, regulations or bye-laws, and shall include the revenues (or) of any other body which may be specifically notified by the State Government as such;]

(2 7) "Magistrate"--"Magistrate" shall include every person exercising all or any of the powers of Magistrate under the Code of Criminal Procedure for the time being in force;

(28) "Month"--"Month" shall mean a month reckoned according to the British calendar;

14[(28-A) "mother" in the case of any person the law applicable to whom permits adoption, shall include an adoptive mother;]

(29) "Movable property"--"Movable property" shall mean property of every description, except immovable property;

15[(29-A) "notification" or "public notification" shall mean a notification published in the Gazette of the State, and the word notified shall be construed accordingly;]

(30) "Oath"--"Oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(31) "Offence"--"Offence" shall mean an act or omission made punishable by any law for the time being in force;

(32) "Part"--"Part" shall mean a part of the Act or Regulation in which the word occurs;

(33) "Persons"--"Persons" shall include any company or association or body of individuals, whether incorporated or not;

16[(33-A) "Prescribed" shall mean prescribed by rules made under the Act in which the word occurs;

(33-B) "public" shall include any class or section of the public;]

(34) "Public nuisance"--"Public nuisance" shall mean a public nuisance as defined in the Indian Penal Code;

(3 5) "Registered"--"Registered", used with reference to a document, shall mean registered in 17[a Part A State or a Part C State] under the law for the time being in force for the registration of documents.

(3 6) "Regulation"--"Regulation" shall mean a regulation made under Government of India Act, 1870;

(37) "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;

(38) "Schedule"--"Schedule" shall mean a schedule to the Act or

Regulation in which the word occurs;

18[(39) "Scheduled bank" shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(39-A) "Scheduled Castes" and "Scheduled Tribes" shall have the same meanings respectively as in the Constitution;]

(40) "Section"--"Section" shall mean a section of the Act or Regulation in which the word occurs;

(41) "Sign"--"Sign" with the 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;

19[(42) "son" in the case of anyone the law applicable to whom permits adoption, shall include an adopted son;

(42-A) "the State" shall mean the State of Uttar Pradesh, and as respects any period before the commencement of the Constitution, shall include the United Provinces;

(42-B) "statutory instrument " shall mean any notification, order, scheme, rule or bye-law-issued under any enactment and having the force of law;

(42-C) "the State Government" shall mean the Government of Uttar Pradesh; and as respects functions entrusted under Article 258-A of the Constitution to the Central Government shall include the Central Government acting within the scope of the authority given to it under that Article;]

(43) "Sub-section"--"Sub-section" shall mean a sub-section of the section in which the word occurs;

(44) "Swear"--"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;

20[(44-A) "Temporary Act" shall mean an Act which is to cease to have effect or cease to operate on the expiration of a particular period or on the happening of a particular event or on a particular day;]

21[(45) "Uttar Pradesh" shall mean all territories for the time being comprised in the territory of Uttar Pradesh under the Constitution;]

22[(46) "Uttar Pradesh Act" shall mean--

(a) as respects any law made before the commencement of the Constitution, an Act made by the Lieutenant Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Council Acts, 1861 and 1892 or the Indian Councils Acts, 1861 to 1909, or the Government of India Act, 1915, or by the

local Legislature or the Governor of the United Provinces under the Government of India Act, or by the Provincial Legislature or the Governor of the United Provinces under the Government of India Act, 1935; and

(b) as respects any law made after the commencement of the Constitution, an Act passed by the State Legislature, and shall include any law made in exercise of the powers of the State Legislature by the President or other authority referred to in sub-clause (a) of clause (1) of Article 357 of the Constitution;]

(47) "Vessel"--"Vessel" shall include any ship or boat or any other description of vessel used in navigation;

(48) "Will"--"Will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

(49) "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

(50) "Year"--"Year" shall mean a year reckoned according to the British calendar;

23[(51) any reference to a Central Act shall be construed as a reference to that Act as amended from time to time in its application to Uttar Pradesh and in the case of the Code of Civil Procedure, 1908, as a reference to that Code subject also to any annulments, alternations and additions to the rules contained in the First Schedule thereto made from time to time under Section 122 thereof by the High Court;

(52) any reference to a revenue division, district or sub-division, or to a local area under the jurisdiction of a local authority, shall be construed as a reference to such revenue division, district or sub-division or to such local area with its limits as altered from time to time.

(53) any reference to the district judge, civil judge or munsif shall be construed as including a reference to an additional district judge, an additional civil judge, or, as the case may be, an additional munsif to whom a case is assigned by the district judge (to whom such officer is administratively subordinate) for disposal.]

1. Substituted by Section 2 of U. P. Act No. 54 of 1975.

2. The words North Western Provinces shall stand unmodified by the A.O. 1950.

3 . Inserted by U. P. Act 54 of 1975, Section 5 (1) (w.e.f. 21.10.1975).

4. Inserted by U. P. Act 54 of 1975, Section 5 (ii) (w.e.f. 21-10-

1975)

5. Inserted by U. P. Act 54 of 1975, Section 5 (iii) (w.e.f. 21-10-1975).

6. Inserted by U. P. Act 54 of 1975, Section 5 (iv) (w.e.f. 21-10-1975).

7. Inserted by U. P. Act 54 of 1975, Section 5 (v) (w.e.f. 21-10-1975).

8. Substituted by the A.O. 1950.

9. Inserted by U. P. Act 54 of 1975, Section 5 (vi) (w.e.f. 21-10-1975).

10. Substituted by U. P. Act, 54 of 1975, Section 5 (vii) (w.e.f. 21-10-1975).

11. The definition "His Majesty" or "The King" omitted by A.O. 1950.

12. Inserted by U. P. Act 54 of 1975, Section 5 (viii) (w.e.f. 21-10-1975).

13. Substituted by Section 5 (ix) U. P. Act 54 of 1975 (w.e.f. 21.10.1975).

14. Inserted by U. P. Act 54 of 1975, Section 5 (x) (w.e.f. 21-10-1975).

15. Inserted by U. P. Act 54 of 1975, Section 5 (xi) (w.e.f. 21-10-1975).

16. Inserted by U. P. Act 54 of 1975, Section 5 (xii) (w.e.f. 21-10-1975).

17. For Part A State or Part C State read now India

18. Substituted by U. P. Act 54 of 1975, Section 5 (xiii) (w.e.f. 21-10-1975)

19. Substituted by U. P. Act 54 of 1975, Section 5 (xiv) (w.e.f. 21-10-1975).

20. Inserted by U. P. Act 54 of 1975, Section 5 (xv) (w.e.f. 21-10-1975).

21. Substituted by U. P. Act 54 of 1975, Section 5 (xvi) (w.e.f. 21-10-1975).

22. Substituted by U. P. Act 54 of 1975, Section 5 (xvii) (w.e.f. 15-10-1975).

23. Inserted by U. P. Act 54 of 1975, Section 5 {xviii) (w.e.f. 21-10-1975).

Section 4A - Grammatical variations and cognate expressions

1[In every Uttar Pradesh Act, when a word is defined--

(a) the definition shall apply unless to context of the Act otherwise require;

(b) grammatical variations of that word and cognate expression

shall have corresponding meanings.]

1. Inserted by U. P. Act 54 of 1975, Section 6 (w.e.f. 21-10-1975).

CHAPTER 3

GENERAL RULES OF CONSTRUCTION

5. Coming Into Operation Of Enactments :-

1[(1) where any Uttar Pradesh Act is not expressed to come into force on a particular day, then,--

(a) in the case of an Uttar Pradesh 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 of His Majesty, as the case may require, is first published in the official Gazette, and, if it is an act of the Governor, on the day on which it is first published as an Act in the official Gazette;

(b) in the case of an Uttar Pradesh 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].

(2) Unless the contrary is expressed, an 2[Uttar Pradesh] Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

1. Substituted by the A. O. 1950.

2. Substituted for "United Provinces" by A.O. 1950.

6. Effect Of Repeal :-

Where any Uttar Pradesh 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 thereunder; 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 remedy, or any investigation or legal proceeding commenced before the repealing Act shall have come into operation in respect of any such right, privilege, obligation, liability, penalty,

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

6A. Time Of Expiration Of Temporary Acts :-

1[A temporary Uttar Pradesh Act, shall be construed as ceasing to operate immediately at the end of the day on which it expires.

1. Inserted by U. P. Act 54 of 1975, Section 7 (w.e.f. 21.10.1975).

6B. Effect Of Expiration :-

Where a temporary Uttar Pradesh Act, expires the provisions of Sections 6 and 24 shall apply to it as they apply to the repeal of enactment by an Uttar Pradesh Act.

6C. Repeal Of Expiration Of Law Making Textual Amendments In Other Laws :-

(1) Except as provided by sub-section (2) where any Uttar Pradesh Act amends the text of any Uttar Pradesh Act or Regulation by the express omission, insertion or substitution of any matter, and the amending enactment is subsequently repealed, 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.

(2) Where any such amendment of text is made by any temporary Uttar Pradesh Act or by an Ordinance or by any law made in exercise of the power of the State Legislature by the President or other authority referred to in sub-clause (a) of clause (1) of Article 357 of the Constitution, and such Act, Ordinance or other law ceases to operate without being re-enacted (with or without modifications) the amendment of text made thereby shall also cease to operate.]

7. Revival Of Repealed Enactments :-

In any 1[Uttar 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.

1. Substituted for "United Provinces" by A. O. 1950.

8. Construction Of References To Repealed Enactments :-

1[(1) Where any 2[Uttar 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.

3[(2) Where the short title of any enactment is amended by an Uttar Pradesh Act, then, references to that enactment by its old

short title in any other enactment shall be construed as references to that enactment by its new short title.]

1. The existing Section 8 renumbered as sub-section (1) by Section 8 of U. P. Act 54 of 1975, (w.e.f. 21-10-1975).
2. Substituted for "United Provinces" by A. O. 1950.
3. Inserted by U. P. Act 54 of 1975, Section 8 (w.e.f. 21-10-1975).

9. Commencement And Termination Of Time :-

In any 1[Uttar Pradesh] 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"

1. Substituted for "United Provines" by the A. O. 1950.

10. Computation Of Time :-

Where, by any 1[Uttar 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 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 Indian Limitation Act, 1872, applies.

1. Substituted for "United Provines" by the A. O. 1950.
2. Now see Limitation Act, 1963, (Act No. 36 of 1963).

10A. Marginal Notes Not Part Of Act :-

1[Marginal notes to any provisions of an Uttar Pradesh Act and thereference to the number and year of any former enactment against any such provision shall be deemed to have been inserted for convenience of reference only and shall not form part of the Act.

1. Inserted by U. P. Act 54 of 1975, Section 9 (w.e.f. 21-10-1975).

10B. Effect Of Incorporation :-

Where any Uttar Pradesh Act constitutes a body corporate by any form of words, that body corporate shall have perpetual succession and a common seal and may enter into contract by its corporate name, acquire, hold and dispose of property, whether movable or immovable, and sue or be used by its corporate name.

10C. Deviations From Forms :-

Where, by any Uttar Pradesh Act, a form is prescribed, slight deviationstherefrom not affecting the substance or calculated to mislead, shall not invalidate it.]

11. Measurement Of Distances :-

In the measurement of any distance, for the purposes of any 1[Uttar Pradesh] Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

1. Substituted by the A. O. 1950.

12. Duty To Be Taken Pro Rata Enactments :-

Where, by any 1[Uttar Pradesh] Act, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise then a like duty is leviable according to the same rate on any greater or less quantity.

1. Substituted by the A. O. 1950.

13. Gender And Number :-

In all 1[Uttar Pradesh] 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.

1. Substituted by the A. O. 1950.

CHAPTER 4

POWERS AND FUNCTIONARIES

14. Powers Conferred On The State Government To Be Exercisable From Time To Time :-

Where, by any 1[Uttar Pradesh] Act, any power is conferred 2[** *] then that power may be exercised from time to time as occasion requires.

1. Substituted by the A. O. 1950.

2. The words "on the State Government" omitted by U. P. Act 54 of 1975.

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

Where, by any 1[Uttar Pradesh] Act, a power to appoint any person to fill any office or execute and function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

1. Substituted by the A. O. 1950.

16. Power To Appoint To Include Power To Suspend, Dismiss Or Otherwise Terminate The Tenure Of Office :-

1[Where, by any Uttar Pradesh Act, a power to make any appointment is conferred then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have the power to suspend, dismiss, remove or otherwise terminate the tenure of office of any person appointed, whether by itself or any other authority, in exercise of that power.]

1. Substituted by U. P. Act 54 of 1975, Section 11 (w.e.f. 21-10-1975).

17. Substitution Of Functionaries :-

In any 1[Uttar Pradesh] 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.

1. Substituted by the A. O. 1950.

18. Successors :-

In any Uttar Pradesh Act it shall be sufficient for the purpose of indicating the relation of a law of 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 1[Uttar Pradesh] Act it shall be sufficient for the purposes of expressing that a law relative of the chief of superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that officer in the place of their superior, to prescribe the duty of the superior.

1. Substituted by the A. O. 1950.

19A. Ancillary Powers :-

1[Where, by any Uttar Pradesh Act, a power is given to a person, officer or functionary to do or enforce the doing of any act or thing, all such powers shall be deemed also to be given as are necessary to enable that person, officer or functionary to do or enforce the doing of the act or thing].

1. Inserted by U. P. Act 54 of 1975, Section 12 (w.e.f. 21-10-1975).

CHAPTER 5

PROVISIONS AS TO [STATUTORY INSTRUMENTS], MADE UNDER ENACTMENTS

20. Construction Of Orders, Etc. Issued Under Enactments :-

1[2[(1)] Where, by any 3[Uttar Pradesh] Act a power to issue any 4[statutory instruments] is conferred, then expressions used in the 4[statutory instrument] shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

5[(2) The provisions of Sections 4, 4-A, 6, 6-A, 6-B, 7, 8, 9, 10, 10-A, 10-C, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19-A and 28 shall mutatis mutandis apply in relation to any statutory instrument issued under any Uttar Pradesh Act as they apply in relation to any Uttar Pradesh Act].

1. Substituted by U. P. Act 54 of 1975, Section 13 (w.e.f. 21-10-1975).

2. Existing Section 20 renumbered as sub-section (1) and in sub-section (1) so renumbered the words "notification, order, scheme, rule, form or bye-law" Substituted by Section 14 (a), U. P. Act 54 of 1975, (w.e.f. 21-10-1975).

3. Substituted by the A. O. 1950.

4. Substituted by U. P. Act 54 of 1975, Section 15 (w.e.f. 21-10-1975).

5. Inserted by U. P. Act 54 of 1975, Section 14 (b) (w.e.f. 21-10-1975).

21. Power To Make To Include Power To Add To, Amend, Vary Or Rescind, Orders, Rules Or Bye-Laws :-

Where, by any 1[Uttar Pradesh] Act, a power to issue 2[statutory instrument] 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, amend, vary, or rescind any 2[statutory instrument] so issued.

1. Substituted by the A. O. 1950.

2. Substituted by U. P. Act 54 of 1975, Section 15 (w.e.f. 21-10-

1975).

22. Making Of Rules Or Bye-Laws And Issuing Of Orders And Notifications Between Publication And Commencement Of Enactment :-

Where by any 1[Uttar Pradesh] Act, which is not to come into force on the day on which it is first published in the official Gazette a power is conferred²[to issue statutory instruments], with respect to the application of the Act or in the exercise of any power exercisable thereunder or under any enactment thereby amended, 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, taxes, cess or other dues for which, anything is to be done under the Act, then that power may be exercised at any time after the Act has been published as aforesaid; but 6[statutory instruments so issued] shall not take effect till the commencement of the Act.

1. Substituted by the A. O. 1950.

2. Substituted by U. P. Act 54 of 1975, Section 16 (w.e.f. 21-10-1975).

23. Provision Applicable To Making Of Rules Or Bye-Laws After Previous Publication :-

1[(1)] Where, by any 2[Uttar Pradesh] 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 :

(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 affected 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 3[Government concerned] 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 3[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.

4[(2) The date referred to in clause (c) of sub-section (1) shall not be a date earlier than the day of expiration of a period of one month from the date of publication of the draft of the proposed rules or bye-laws under clause (a) of that sub-section.

(3) Notwithstanding the provisions of sub-sections (1) and (2), where the State Government is satisfied that circumstances exist which render it necessary for it to make rules or bye-laws with immediate effect or with effect from a date earlier than a period of one month, it may make any such rules or bye-laws without previous publication or, as the case may be, fix a date referred to in clause (c) of sub-section (1) earlier than the day of expiration of a period of one month from the publication of the draft of the proposed rules or bye-laws.]

1. The existing Section 23 renumbered as sub-section (1) and clauses (1), (2), (3), (4) and (5) renumbered as clauses (a), (b), (c), (d) and (e) by Section 17 of U. P. Act 54 of 1975 (w. e. f. 21-10-1975).

2. Substituted by the A. O. 1950.

3. Substituted by the A. O. 1937.

4. Inserted by U. P. Act 54 of 1975, Section 17, (w. e. f. 21-10-1975).

23A. Date Of Coming Into Effect Of Rules And The Control Of Legislature Over Them :-

1[(1) All rules made by the State Government under an Uttar Pradesh Act shall as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session, for a total period of not less than thirty days, which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Gazette subject to such modifications or annulments as the two Houses of the Legislature may, during the said period, agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(2) where any Central Act, in force or applicable to Uttar Pradesh and relating to matters with respect to which the State Legislature has power to make laws for Uttar Pradesh, confers power on the State Government to make rules thereunder, then subject to any express provisions to the contrary in such Act, the provisions of sub-section (1) shall mutatis mutandis apply to the rules made by the State Government in exercise of that power.]

1. Inserted by U. P. Act 54 of 1975, Section 18, (w. e. f. 21-10-1975).

24. Continuation Of Appointments, Notifications, Orders, Etc. Issued Under Enactments Repealed And Re-Enacted :-

Where any enactment is repealed and re-enacted by an 1[Uttar Pradesh] Act, with or without modification, then, unless it is otherwise expressly provided, any appointment, 2[or statutory instrument or form] 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, 3[or statutory instrument or form] made or issued under the provisions so re-enacted.

1. Substituted by A.O. 1950.
2. Substituted by U. P. Act 54 of 1975 (w. e. f. 21-10-1975).
3. Substituted by ibid.

CHAPTER 6 **MISCELLANEOUS**

25. Recovery Of Fines :-

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 shall apply to all fines imposed under any 1[Uttar Pradesh] Act, or any rule or bye-laws made under any 1[Under Pradesh] Act, unless the Act, rule or bye-law contains an express provision to the contrary.

1. Substituted by A.O. 1950.

26. Provision As To Offences Punishable Under Two Or More Enactments :-

Where an act or omission constitutes an offence under two or more 1[Uttar Pradesh] Acts, 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.

1. Substituted by A.O. 1950.

27. Meaning Of Service By Post :-

Where any 1[Uttar Pradesh] 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.

1. Substituted by A.O. 1950.

28. Citation Of Enactments :-

(1) In any 1[Uttar Pradesh] Act, and in any rule, bye-law, instrument of document made under, or with reference to, any such 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) In citing any 1[Uttar Pradesh] Act, made previously to the 2nd day of May, 1902, the words 2[United Provinces] may be substituted for the words "North-Western Provinces and Oudh" and the word "Agra" for the words "North-Western Provinces" in the title or short title, (if any) conferred thereon.

(3) In any 1[Uttar 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.

1. Substituted by A.O. 1950.

2. The expression "United Provinces" shall stand unmodified, vide A. O. 1950.

29. References In Existing Enactments To North Western Provinces And Oudh :-

In all 1[Central Acts or Regulations made by the Central Government] and all 1[Uttar Pradesh] Acts, herebefore passed and now in force, and in every appointment, 2[or statutory instrument] made or issued thereunder, all references to the 1[North-Western Provinces and Oudh] shall be construed as referring to 1[Uttar Pradesh] 4[* * * * *] all references to the 3[North-Western Provinces] and to the 3[Province of Oudh] respectively, shall be construed as referring to the corresponding territories as comprised in 1[Uttar Pradesh] 4[* * *] 5[and all references to the Lieutenant-Governor] of the 3[North-Western Provinces] or the Chief

Commissioner of Oudh or the Lieutenant Governor of the 3[North-Western Provinces] and Oudh in council shall be construed as referring to the 1[State Government] of 1[Uttar Pradesh].

1. Substituted by A. O. 1950.

2. Substituted by U. P. Act 54 of 1975, Section 20, (w. e. f. 21-10-1975).

3. The expressions "North-Western Provinces" and "Provinces of Oudh" shall stand unmodified by the A. O. 1950.

4. The words "of Agra and Oudh" omitted by the A. O. 1937.

5. Substituted for the words "all references to the Lieutenant-Governor of the North-Western Provinces the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the U. P. of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the U. P. of Agra and Oudh in Council" by ibid.

30. Application To Ordinances And Regulations Under The Government Of India Act, 1935 :-

1[The provisions of this Act shall apply--

(a) in relation to any Ordinance promulgated by the Governor under Section 88 of the Government of India Act, 1935, as they apply in relation to Uttar Pradesh Acts made under the said Act by the Governor, and in relation to any Regulation made by the Governor under Section 92 of the said Act as they apply in relation to Uttar Pradesh Acts, made by the Provincial Legislature; 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 paragraph 5 of the Fifth Schedule to the Constitution as they apply in relation to Uttar Pradesh Acts, made by the State Legislature :

Provided that clause (b) of sub-section (1) of Section 5 of this Act shall apply to an 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.]

1. Section 30 Substituted by A. O. 1950.

SCHEDULE 1

THE SCHEDULE

1[* * *]

1. Schedule omitted by U. P. Act 54 of 1975, Section 21 (w. e. f. 21-10-1975).