

INTERPRETATION OF STATUTES



Notes

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This is a compilation of notes and lectures on the subject titled "INTERPRETATION OF STATUTES". It is a ready-to-use gist for law students and the primary objective of this gist is to enable the reader to understand the in-depths of the subject and to provide exam oriented information.

This has been a new initiative from GOODWORD and we hope that it will definitely be of some use to law students and to others who are interested in this subject.

Suggestions and additions to the compilation are welcomed.

Wishing you all the best!

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CHAPTER 1

GENERAL PRINCIPLES OF INTERPRETATION

Introduction

The term interpretation means “To give meaning to”. Governmental power has been divided into three wings namely the legislature, the executive and the judiciary. Interpretation of statutes to render justice is the primary function of the judiciary. It is the duty of the Court to interpret the Act and give meaning to each word of the Statute.

The most common rule of interpretation is that every part of the statute must be understood in a harmonious manner by reading and construing every part of it together.

The maxim “*A Verbis legis non est recedendum*” means that you must not vary the words of the statute while interpreting it.

The **object** of interpretation of statutes is to determine the intention of the legislature conveyed expressly or impliedly in the language used.

In *Santi swarup Sarkar v pradeep kumar sarkar*, the Supreme Court held that if two interpretations are possible of the same statute, the one which validates the statute must be preferred.

Kinds of Interpretation

There are generally two kind of interpretation; literal interpretation and logical interpretation.

Literal interpretation

Giving words their ordinary and natural meaning is known as literal interpretation or *litera legis*. It is the duty of the court not to modify the language of the Act and if such meaning is clear and unambiguous, effect should be given to the provisions of a statute whatever may be the consequence. The idea behind such a principle is that the legislature, being the supreme law making body must know what it intends in the words of the statute. Literal interpretation has been called the safest rule because the legislature's intention can be deduced only from the language through which it has expressed itself.

The bare words of the Act must be construed to get the meaning of the statute and one need not probe into the intention of the legislature. The elementary rule of construction is that the language must be construed in its grammatical and literal sense and hence it is termed as *litera legis or litera script*.

The **Golden Rule** is that the words of a statute must prima facie be given their ordinary meaning. This interpretation is supreme and is called the golden rule of interpretation.

In Ramanjaya Singh v Baijnath Singh, the Election tribunal set aside the election of the appellant under s 123(7) of the Representation of People's Act, 1951 on the grounds that the appellant had employed more persons than prescribed for electioneering purpose. The appellant contended that the excess employees were paid by his father and hence were not employed by him. The Supreme Court followed the

grammatical interpretation of S 123(7) and termed the excess employees as volunteers.

In Maqbool Hussain v State of Bombay, the appellant, a citizen of India, on arrival at an airport did not declare that he brought gold with him. Gold, found in his possession during search in violation of government notification, was confiscated under S 167 (8) Sea Customs Act, 1878. He was charged under s 8 of the Foreign Exchange Regulation Act, 1947. The appellant pleaded that his trial under the Act was violative of Art 20(2) of the constitution relating to double jeopardy as he was already punished for his act by was of confiscation of the gold. It was held by the Supreme Court that the sea customs authority is not a court or a judicial tribunal and the confiscation is not a penalty. Consequently his trial was valid under the Act of 1947.

In Madan mohan v K.Chandrashekara, it was held that when a statute contains strict and stringent provisions, it must be literally and strictly construed to promote the object of the act.

In Bhavnagar University v Palitana Sugar Mills Pvt Ltd, it was held that according to the fundamental principles of construction the statute should be read as a whole, then chapter by chapter, section by section and then word by word.

In *Municipal board v State transport authority, Rajasthan*, an application against the change of location of a bus stand could be made within 30 days of receipt of order of regional transport authority according to s 64 A of the Motor vehicles Act, 1939. The application was moved after 30 days on the contention that statute must be read as “30 days from the knowledge of the order”

The Supreme Court held that literal interpretation must be made and hence rejected the application as invalid.

In Raghunandan Saran v M/s Peary Lal workshop Pvt Ltd, the supreme court validated 14 (2) of the Delhi Rent Control Act 1958 and provided the benefit of eviction on account of non payment of rent. The Supreme Court adopted grammatical interpretation.

Exceptions to the rule of literal interpretation

Generally a statute must be interpreted in its grammatical sense but under the following circumstances it is not possible:-

Logical defects

- A) ambiguity
- B) inconsistency
- C) incompleteness or lacunae
- D) unreasonableness

Logical interpretation

If the words of a statute give rise to two or more construction, then the construction which validates the object of the Act must be given effect while interpreting.

It is better to validate a thing than to invalidate it or it is better the Act prevails than perish.

The purpose of construction is to ascertain the intention of the parliament.

The mischief rule

The mischief rule of interpretation originated in Heydon's case. If there are two interpretations possible for the material words of a statute, then for sure and true interpretation there are certain considerations in the form of questions.

The following questions must be considered.

1. What was the common law before making the Act?
2. What was the mischief and defect for which the common law did not provide a remedy?
3. What is the remedy resolved by the parliament to cure the disease of the common wealth?
4. The true reason of the remedy.

The judge should always try to suppress the mischief and advance the remedy. The mischief rule says that the intent of the legislature behind the enactment should be followed.

Rule of *casus omissus*

Generally, the court is bound to harmonize the various provisions of an Act passed by the legislature during interpretation so that repugnancy is avoided. Sometimes certain matters might have been omitted in a statute. In such cases, they cannot be added by construction as it amounts to making of laws or amending which is a function of legislature. A new provision cannot be added in a statute giving it meaning not otherwise found therein. A word omitted from the language of the statute, but within the general scope of the statute, and omitted due to inadvertence is known as Casus Omissus.

In Padma Sundara Rao v State of Tamil Nadu it was held that the *casus omissus* cannot be supplied by the court except in the case of a clear necessity and when reason for it is found within the four corners of the statute itself.

Rule of *ejusdem generis*

Ejusdem generis means “of the same kind”. Generally particular words are given their natural meaning provided the context does not require otherwise. If general words follow particular words pertaining to a class, category or genus then it is construed that general words are limited to mean the person or thing of the same general class, category or genus as those particularly exposed.

Eg: if the husband asks the wife to buy bread, milk and cake and if the wife buys jam along with them, it is not invalidated merely because of not specifying it but is valid because it is of the same kind.

The basic rule is that if the legislature intended general words to be used in unrestricted sense, then it need not have used particular words at all. This rule is not of universal application.

In Devendra Surti v State of Gujarat, under s2 (4) of the Bombay shops and Establishments Act, 1948 the term commercial establishment means “an establishments which carries any trade, business or profession”. Here the word profession is associated to business or trade and hence a private doctor’s clinic cannot be included in the above definitions as under the rule of *Ejusdem Generis*.

In Grasim Industries Ltd v Collector of Customs, Bombay, the rule of *Ejusdem Generis* is applicable when particular words pertaining to a class, category or genus are followed by general words.

In such a case the general words are construed as limited to things of the same kind as those specified.

Every clause of a statute must be construed with reference to other clauses of the Act.

CHAPTER 2

INTERNAL AID OF INTERPRETATION

INTRODUCTION

Statute generally means the law or the Act of the legislature authority. The general rule of the interpretation is that statutes must prima facie be given this ordinary meaning. If the words are clear, free from ambiguity there is no need to refer to other means of interpretation. But if the words are vague and ambiguous then internal aid may be sought for interpretation.

INTERNAL AIDS

1. Context

If the words of a statute are ambiguous then the context must be taken into consideration. The context includes other provisions of

the statute, its preamble, the existing state of law and other legal provisions. The intention behind the meaning of the words and the circumstances under which they are framed must be considered.

2. Title

Title is not part of enactment. So it cannot be legally used to restrict the plain meaning of the words in an enactment.

Long title

The heading of the statute is the long title and the general purpose is described in it.

E.g. Prevention of Food Adulteration Act, 1954, the long title reads as follows “An Act to make provisions for the prevention of adulteration of food”.

In Re Kerala Education bill, the Supreme Court held that the policy and purpose may be deduced from the long title and the preamble.

In Manohar Lal v State of Punjab, Long title of the Act is relied as a guide to decide the scope of the Act.

Short Title

The short title of the Act is purely for reference only. The short title is merely for convenience. E.g. The Indian Penal Code, 1860.

3. Preamble

The Act Starts with a preamble and is generally small. The main objective and purpose of the Act are found in the Preamble of the Statute. “Preamble is the Act in a nutshell. It is a preparatory statement. It contains the recitals showing the reason for enactment of the Act. If the language of the Act is clear the preamble must be ignored. The preamble is an intrinsic aid in the interpretation of an ambiguous act.

In Kashi Prasad v State, the court held that even though the preamble cannot be used to defeat the enacting clauses of a statute, it can be treated as a key for the interpretation of the statute.

4. Headings

A group of Sections are given under a heading which act as their preamble. Sometimes a single section might have a preamble. S.378-441 of IPC is "Offences against property".

Headings are prefixed to sections. They are treated as preambles. If there is ambiguity in the words of a statute, headings can be referred.

In Durga Thathera v Narain Thathera, the court held that the headings are like a preamble which helps as a key to the mind of the legislature but do not control the substantive section of the enactment.

5. Marginal notes

Marginal notes are the notes that are printed at the side of the section in an Act and it summarizes the effect of the section. They are not part of the statute. So they must not be considered. But if there is any ambiguity they may be referred only as an internal aid to the construction.

In Wilkes v Goodwin, the Court held that the side notes are not part of the Act and hence marginal notes cannot be referred.

6. Proviso

A proviso merely carves out something from the section itself. A proviso is a subsidiary to the main section and has to be construed in the light of the section itself. Ordinarily, a proviso is intended to be part of the section and not an addendum to the main provisions. A proviso should receive strict construction. The court is not entitled to add words to a proviso with a view to enlarge the scope.

7. Definition/ Interpretation clause

The legislature can lay down legal definitions of its own language, if such definitions are embodied in the statute itself, it becomes binding on the courts.

When the act itself provides a dictionary for the words used, the court must first look into that dictionary for interpretation.

In Mayor of Portsmouth v Smith, the court observed “The introduction of interpretation clause is a novelty.”

8. Conjunctive and Disjunctive words

The word “and” is conjunctive and the word “or” is disjunctive. These words are often interchangeable. The word ‘and’ can be read as ‘or’ and ‘or’ can be read as ‘and’.

9. Gender

Words’ using the masculine gender is deemed to include females too.

10. Punctuation

Punctuation is disregarded in the construction of a statute. Generally there was no punctuation in the statutes framed in England before 1849.

Punctuation cannot control, vary or modify the plain and simple meaning of the language of the statute.

11. Explanations

IN certain provisions of an Act explanations may be needed when doubts arise as to the meaning of the particular section.

Explanations are given at the end of each section and it is part and parcel of the enactment.

12. Exceptions and savings clause

To exempt certain clauses from the preview of the main provisions, and exception clause is provided. The things which are not exempted fall within the purview of the main enactment.

The saving clause is also added in cases of repeal and re-enactment of a statute.

13. Schedules

Schedules form part of a statute. They are at the end and contain minute details for working out the provisions of the express enactment. The expression in the schedule cannot override the provisions of the express enactment.

Inconsistency between schedule and the Act, the Act prevails. (*Ramchand textiles v sales tax officer*)

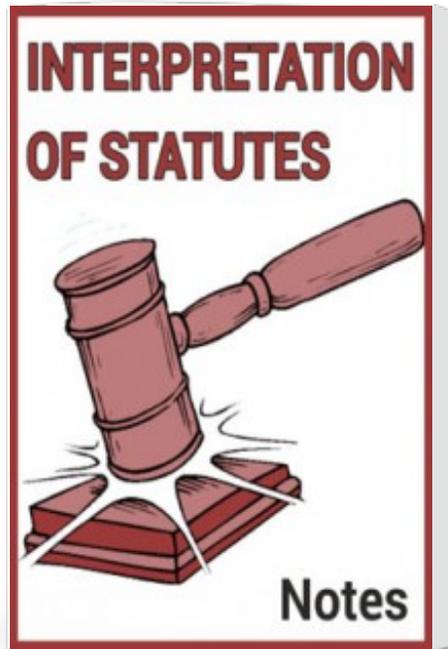
14. Illustrations

Illustrations in enactment provided by the legislature are valuable aids in the understanding the real scope.

15. Meaning of the words

The definition of the words given must be construed in the popular sense. Internal aid to construction is important for interpretation.

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