

**Bengal Act I of 1899 (The
Bengal General Clauses Act, 1899.)¹**

Ben. Act I of 1914.

AMENDED

REPEALED IN PART AND

AMENDED.

Ben. Act I of 1939, Ben. Act I
of 1940, Act I of 1903.

(a) The Government of
India (Adaptation of
Indian Laws) Order,
1937.

fb) The Indian Inde
pendence (Adapta
tion of Bengal and
Punjab Acts) Order.
1948.

(c) The Adaptation of _ Laws Order.
1950.

(18th January, J 899.}

*An Act for further shortening the language used in Bengal Acts² [and
West Bengal Acts} and for other purposes.*

ADAPTED

WHEREAS it is expedient further to shorten the language used in Bengal
Acts¹ [and West Bengal Acts], and to make certain other provisions
relating to those Acts ;

It is hereby enacted as follows :ô

LOCAL EXTENT.ô Since this Act has no "local exteM" clause, it must be uken
originally-to have extended to the whole of the former Province of Bengal including the de-
regulationised tracts.

LEGISLATIVE PAPERS.ô For Statement of Objects and Reasons, see the *Calcutta
Gazette* of 1898, Pt. IV, page 570, and Tor Proceedings in Council, see *ibid*, supplement,
pages 1426, 1428, 1579 and 2538.

OTHER SIMILAR ACTS.ô This Act closely follows the General Clauses Act, 1897 (X
of 1897), passed by the Governor General in Council (primed in volume V Pt, VIII, page 7 of
the India Code). Some of its clauses are based on clauses of the Interpretation Act, 1889 (52
& 53 Vict, C, 63), Printed in the Collection of Statutes relating to India, 1913. Similar Acts
have been passed by other Legislatures in India, viz., Madras Acts I of 1867 and I of 1891.
Bombay Act I of 1904. Eastern Bengal and Assam Act I of 1909. United Provinces Act I of
1904, Punjab Act I of 1898, and Assam Act I of 1915.

¹These words were inserted by paragraph (1) of Article 3 of the Schedule to, the
Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

vy^ " ? *? * Tv^1^ -> V_- " > >^ ^-^ VV» -VA" >8^L -- > ^SS? - >>> » >>>^7->> ;>

1 in 3 in Order XIX in Sch. I to the Code of Civil Procedure (Act V of 1908) in the India C:
As to affidavits to be used before a High Court in Criminal matters, *see* also section 53
Clause (5) was omitted by para. 3 and Sch. IV to the Government of India (Adaptation

(Preliminary.—Sections 1, 2.—General Definitions.—Section 3.)

Preliminary.

1. This Act may be called the Bengal General Clauses Act, 1899.
 2. *(Repeal of Bengal Act V of 1867.)—Rep. bys. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).*

General Definitions.

3. In this Act, and in all Bengal Acts made after the commencement of this Act [and in all West Bengal Acts] unless there is anything repugnant in the subject or context, [Ben. Act I

(J) "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code¹;

Act XLV of
1860,

(2)⁴ "act" used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions;

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

(4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;
(General Definitions.—Section 3.)

"Abel."

"Ac I."

"Affidavit."

"Barrister."

- (6) "Bengal Act" shall mean an Act made by the Lieutenant- Governor of Bengal in Council under ²[the Indian Councils Act, 1861, or] the ³Indian Councils Acts, 1861 and 1892 ⁴[or the Indian Councils Acts, 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the Indian Council Acts, 1861, 1892 and 1909] ⁵[or the Government of India Act, 1915, or by the Local Legislature or the Governor of Bengal under the Government of India Act, or by the ⁶(Provincial Legislature) or the Governor of Bengal under the Government of India Act, 1935.]
- (7) "Chapter" shall mean a Chapter of the Act in which the word occurs;
- (8) "Collector" shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer in charge of the revenue administration of a district;
- (9) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force ;
- (10) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division ;

"Chapter."

"Collector."

"Commencement,"

"Commissioner."

"Consular officer."

²These Acts have been repealed by the Government of India Act, 1915(5&6Geo, 5. c. 61), s. 130 and the Fourth Schedule.

⁴These words and figures were added by the Bengal Laws Act, 19M (Ben. Act I or 1914).

⁵These words and figures were inserted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

This expression shall stand unmodified, VWRpara. 3 and I lie Eleventh Sch of the Adaptation of Laws Order, 1950.

⁶As to when an Act comes into force. see section 6.

⁷For a similar definition, see the Consular Salaries and Fees Act. 1891 (54 & 55 Vict., c. 36) section 3.

For similar definitions, see the Indian Penal Code (Act XLV of 1860), section 29, in the India Code and the Indian Evidence Act, 1872 (of 1872), section 3, in the India Code.

⁸As to ironMruclion of expressions referring to wriiing. see clause (H?) of this section.

⁹See clause (35) of this section.

¹⁰For a similar definition, see the Bills of Exchange Act, 1882(45 & 46 Vict. c. 61), section 90, and the Sale of Goods Act, 1893 (55 & 56 Vict., c. 71), section 62 (2).

For discussion in His Excellency the Viceroy's Council upon a similar definition of "good faith" contained in clause (20) of section 3 of the General Clauses Act, 1897.

see the Gazette of India, Maru'h, 1897. Ft. VI, pa^cs 55 lo 62 and 76 id 79.

The definition in the present Act differs from the definition of "good faith" contained in section 52 of the Indian Penal Code (Act XLV of 1860),

Clause 18 was omitted by section 2 (f) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940),

Clauses 19 and 24 were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

Clause 20 was omitted by s. 2 (f) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

of 1899.]

(The "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for

24 & 25, Vict.,
c. 67, 55 & 56
Vict., c. 14,

"Bengal
Act."

The expression "immovable property" is defined differently in the Indian Registration Act, 1908 (XVI of 1908), section 2(6). For a definition of "land" applicable to Bengal Acts made between the 1st June, 1867, and the 31st January, 1899, see section 5.

I.e., rigorous or simple, see section 53 or Act XLV of 1860.

For a very similar definition, see the Local Authorities Loans Act, 1914 (IX of 1914), section 2.

¹See foot-note 6 on page 162, *ante*.

The Code now in force is Act V of 189H.

For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), section 742, in the Collection of Statutes relating to India, 1913.

For a comprehensive definition of the word "property," see section 168 of the Bankruptcy Act, 1883 (46 and 47 Vict., c. 52).

**Cf.* the definition of "affidavit" in clauses (J) of this section and the foot-notes thereto.

For a similar definition, see section 4(1) of the Code of Criminal Procedure, 1898 (Act V of 1898).

(General Definitions.—Section 3.)

- (21) "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 ;
- (22) "imprisonment" shall mean imprisonment of either description² as defined in the Indian Penal Code :
- (23) "local authority" shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund ; * # * * *
- (25) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure⁵ for the time being in force ;
- (26) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship ;
- (27) "month" shall mean a month reckoned according to the British calendar;
- (28) "movable property" shall mean property of every description, except immovable property ;
- (29) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing";
- (30) "offence" shall mean any act or omission made punishable by any law for the time being in force ;
- "Immovable property."
- "Imprisonment."
- "Local authority."
- "Magistrate."
- "Master" (or a ship).
- "Month."
- "Movable property."
- "Oath."
- "Offence."

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(General Definitions.—Section 3.)

- "Pan.
t.
"Person."
"Public
nuisance."
"Regis-
tered."
"Regu-
la-
tion."
"Rule."
"Schedule."
"Scheduled
District."¹
"Section."
- (31) "Part" shall mean a part of the Act in which the word occurs ;
- (32) "person" shall include any company or association or body of individuals, whether incorporated or not;
- (33) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code⁵;
- (34) "registered" used with reference to a document, shall mean registered in ^J[a Part A State or a Part C Slate] under the law^J for ^{Act XLV of 1860.} the time being in force for the registration of documents :
- ⁵(35) "Regulation" shall mean a Regulation made by the Governor under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution and shall include a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935, or by the Governor under the Government of India Act, 1935, or by the President under Article 243 of the Constitution ;
- (36) *"rule" shall mean a rule made in exercisc of a power conferred by any enactment, and shall include a regulation made as a rule under any ^{33 and 34 Via., e. 3,5 and 6 Geo. V, c. 61. 26 Geo. V, c. 2.} enactment;
- (37) "Schedule" shall mean a schedule to the Act in which the word occurs ;
- (38) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Acl, 1874 ;
- (39) "section" shall mean a section of the Act in which the word occurs;
- ¹For a different definiuon or "person" applicable to Bengal Acts made between the 1st June. 1867, and the 18th January. 1899, see section 5.
- ²See Act XLV of 1 SCO. section. 268. Fur procedure in dealing with public nuisances, » Ch. X of the Code of Criminal Procedure, 1898 { Act V of 1898), XIV of 1874.
- ³The words "a Provi nee" were originally subsiituted for the words "British India" by paragraph (I) of Article 3 or, and the Schedule to, the Indian Independence (Adaputon of Bengal and Punjab Acts) Order, 19-18, and thereafter these words and letters were substituted for the words "a Province" by paragraph 3 of, and the Clcvcnib Schedule to, the Adaptation of Laws Order. 195Q.
- ⁴See the Indian Registration Acl. 1908 (XVI of 1908).
- ⁵This clause was substituted for the former clause by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws order, 1950.
- *For provisions as to rules, see sections 21 to 26. 29 and 30.

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(General Definitions.—Section 3.)

- (40) "ship" shall include every description of vessel² used in navigation not exclusively propelled by oars ;
- (41) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions;
- (42) "son", in the case of anyone whose personal law permits adoption, shall include an adopted son ; "Ship,"
- (43) "sub-section" shall mean a sub-section of the section in which the word occurs ; "Sign."
- (44) "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 ;
- (45) "vessel" shall include any ship¹ or boat or any other description of vessel used in navigation ; "Son."
- ⁱ(45a) "West Bengal Act" shall mean an Act made by the ^f[Provincial] Legislature of West Bengal under the Government of India "Sub-section."
Act, 1935,⁷[or by the Legislature of the State of West Bengal under the Constitution]; "Swear."
- (46) "will" shall include a codicil and every writing making a "Witt," voluntary posthumous disposition of property ;
- (47) Expressions referring to "writing" shall be construed as "Writing," including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form ; and "Vessel."

¹For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) section 742, in the Collection of Statutes relating to India, 1913.

²For definition of "vessel", see clause (45) of this section.

³Cf. the definition of "affidavit" in clause (J) of this section, and see the foot-notes thereto.

⁴For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) section 742, in the Collection of Statutes relating to India.

The word "vessel" is differently defined in the Indian Penal Code (Act XLV of 1860), section 48.

This clause was inserted by paragraph (I) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

This word shall stand unmodified, see para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

These words within square brackets were added, *ibid.*

⁷The word "will" is differently defined in the Indian Succession Act, 1925 (XXXIX of 1925), section 2(h).

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(General Definitions.—Sections 4, 5 & 5A.)

(48) "year" shall mean a year reckoned according to the British calendar.³

Application of certain of the foregoing definitions to previous Bengal Acts.

4. The definitions in section 3 of the following words, that is to say, "affidavit," "Magistrate," "month," "oath," and "swear," apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts, made between the first day of June, 1867, and the commencement of this Act.

Continuance of certain definitions for purposes of previous Bengal Act.

5. In all Bengal Acts made between the first day of June, 1867, and the commencement of this Act, unless there is anything repugnant in the subject or context,⁶

(1) "land" includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where (here are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure ; and

(2) "person" includes any incorporated company or incorporated association of persons.

Application of certain definitions in section 3 of Act X of 1897 to all Bengal and West Bengal Acts.

³5A.][(7J The definitions in section 3 of the General Clauses Act, 1897 (X of 1897) of the expressions "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities". "High Court", "India", "Indian Law", "Indian State", "merged territories", "Official Gazette", "Part A State", "Part B State", "Part C State", "Province", "Provincial Act", "Provincial ^{X or} 1897, Government", "State", "Slate Act", and "State Government" shall apply also unless there is anything repugnant in the subject or context to all Bengal and West Bengal Acts.]

(2) In any Bengal Act ⁴[or West Bengal Act], references to the "State* Government" or "Central Government" in any provision conferring power to make appointments to the civil services of, or civil posts under, the Government⁵ in India include references to such

³For definition of "financial year," see clause (16) of this section.

⁴These words were inserted by paragraph (J) or Article 3 of, and the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵The word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation or Laws Order, 1950.

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(General Rules of Construction.—Section 6.)

person as the State⁶ Government or the Central Government, as the case may be, may direct, and in any provision conferring power to make rules prescribing the conditions of service of persons serving -[Government] in a civil capacity in India, include references to any person authorised by the State¹ Government or the Central Govern- men, as the case may be, to make rules for the purpose.

(3) The references in any Bengal Act [or West Bengal Act] to servants of or under, or to service of or under, the Centra! Government or the State¹ Government or the State⁷ or⁸ West Bengal], to property of, or belonging to, or vested in, the Secretary of State in Council or the Central Govern ment or the Provincial Government or the Province of Bengal, and to forfeitures to the Central Government or the Provincial Government or the Province or Bengal, shall be construed as references respectively to persons in the service of the Crown, to the service of the Crown, to property vesleil in the Clown, and to forfeitures to the Crown.

General Rules of Construction.

6, fi[YV] Where any Bengal Act or West Bengal Act is not Coming in-
ex pressed lo come mu> operation on a particular day,ô

to opera-
tion of

- (a) inthecaseofaRengal Act or West Bengal Act made before the commencement of the Constitution, it shall come into Bengal operation, if i[is an Act of the Legislature, on the day on ^{Ac.s} whidi the asset thereto of the Governor, the Governor General or His Majesty, as the case may require, is first published in the *Official Gazelle*, and if it is an Act of the Governor of Bengal, on the day on which it is first published as an Act in the *Official Gazette* ;
- (b) in the case ofaWesi Bengal Act made after the commencement of the Constitution, it shall come into operation on ihe day on which the assent thereto of the Governor or the President, as the case may require, is first published in ihe *Official Gazette*.]

(General Rules of Construction.—Sections 7, 8.)

(2) Unless the contrary is expressed, a Bengal Act [or West Bengal Act]

⁶As to the conlinuancecororders, etc.. made u ndcr an enacimcni which is repealed and re-enacted, see scction 25.

⁷See Taot-note 4 on page 180, *tittle*.

The word "State" was substituted for thic word "Province"¹ by paragraph -1/⁶of the Adaptation of Laws Order, 1950.

¹Substituted for the word "Bengal" by parajfj) or ihe Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁸Sub-section fJJ was substituted for ihe Former sub-section (I) by paragraph 3 nf, anil llic Eleventh Schedule to, (tic Adaptation of Laws Order. 1950.

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Act is
published
after having
received the
assent of (the
Governor,
Governor-
General or
His Majesty
or the
President.

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shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

7. In this Act, and in every Bengal Act [or West Bengal Act] made after the commencement of this Act, the date of such publication as is mentioned in section 6, shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal. 8. Where this Act, or any Bengal Act [or West Bengal Act] made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done³ or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability³ acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

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

(General Rules of Construction. —Sections 5A & 9—13.)

8A. Where any Bengal Act [or West Bengal Act] made after the commencement of this Act repeals any enactment by which the text of any former enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different

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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.

9. (1) In any Bengal Act *|or West Bengal Act] made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Repeal of Act
making
lexical
amendment
in former
Act.

(2) This section applies also to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act.

10. Where this Act, or any Bengal Act ²or West Bengal Act] made after the commencement of this Act, repeals and re-enacts with or without modifications, 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.

Revival of
repealed
enactments.

11. In any Bengal Act ~|or West Bengal Act] made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Construction
of references
to repealed
enactments.

12. Where, by any Bengal Act "[or West Bengal Act] made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Commence-
ment and
termination
of time.

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, ³[1908], applies.

13. In the measurement of any distance for the purposes of any Bengal Act - [or West Bengal Act] made after the commencement of

Computation
of time.

¹This section was inserted by s.4 of the Bengal General Clauses (Amendment) Act, 1910 (Ben. Act I of 1910).

²See footnote 4 on page 180, ante.

³These figures were substituted for the figures "13" and "77" by s.2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

Measure-
ment of
distances.

(General Rules of Construction—Sections 14,14A.—Powers and Functionaries. —Sections 15—18).

this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

14. In all Bengal Acts [and West Bengal 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*.

14A. [References to the Sovereign.—Rep. by para.3 and the Eleventh Sch. of the 184 Adaptation of Laws Order, 1950.]

Powers and Functionaries.

Powers conferred ki be exercisable from time to time.

15. Where, by any Bengal Act [or West Bengal Act] made after the commencement of this Act, any power is conferred [when, unless a different intention appears] that power may be exercised from time to time as occasion requires. -

Power to appoint w in elude power to Gender appoint and

16. Where, by any Bengal Act [or West Bengal Act], a power to appoint any person to any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint ID include power to suspend or dismiss.

17. Where, by any Bengal Act [or West Bengal Act], a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Subsidiary of functionaries .

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The Bengal General Clauses Act, 1899.

Successors.

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18. In any Bengal Act [or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to

Official chiefs and subordinates.

(Powers and Functionaries.—Sections J 9, 20.—Provisions as to Orders, Rules, etc., made wider Enactments.—Sections 2)—23.)

mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

19. In any Bengal Act [or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Consim- (ion of orders, etc.. issued under Bengal Acts or West Bengal Acts.

20. In any Bengal Act [or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Power (o issue to include power to add lo. amend, vary or rescind orders, etc.

Provisions as to Orders, Rules, etc., made under Enactments.

Making of rules or bye-laws"

21. Where, by any Bengal Act [or West Bengal Act], a power to issue any order, scheme, rule, byelaw, notification or form is conferred, then expressions used in the order, scheme, rule, bye-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

22. Where, by any Bengal Act⁹ [or West Bengal Act], a power to [issue] orders,

⁸See foot-note 4 on page 180. nine.

These, words were substituted for the words "on the Government, then" by s. 5 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

⁹As to section 17, etc (the Notices on Clauses appended to the Statement of Objects in the Bill) see *Cinti-num (trivil?)* in H9K Pt. IV. nnp. 571.

⁹See foot-note 4 on page 180. unit.

This word was substituted for the word "make" by s. 7 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

This word was substituted for the word "made" *ibid.*

rules, bye-laws, or notifications is conferred, then, that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye-laws or notifications so - "[issued].

23. Where, by any Bengal Act¹ [a r West Bengal Act], which is not to come into operation "[immediately on the passing thereof], a power

¹These words were substituted for the words "on the day on which it is first published in the *Calcutta Gazette* after having received the assent of [the Governor General " by para.3 and Sch.IV to the Government of India(Adaptation of Indian Laws) Order, 1937,

²Marginal note of section 23 *amended* in next page.

(Provisions as to Orders, Rules, ere., made under Enactments.—Section 24.)

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 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 for which, anything is to be done under the Act,

1.
issuing of
orders between
passing and
commence-
ment of Bengal
Act or West
Bengal 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.

Provisions
applicable to
making of rules
or bye-laws
after previous
publication.

24. Where, by any Bengal Act ^[or West Bengal 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:

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [Government concerned] prescribes ;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(Provisions as so Orders, Rules, ere., made under Enacmienrs.—Section 25.—
Miscellaneous.—Sections 26—28.)

(5) 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-law has been duly
made.

25. Where any enactment is, after the commencement of this Act, repealed and
re-enacted by a Bengal Act¹⁰[or West Bengal Act] with or without modification,
then, unless it is otherwise expressly provided, any[appointment], order, scheme,
rule, bye-law, notification¹¹ or form¹² 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] issue under the provisions so re- enacted,
unless and until it is superseded by any[appointment], order, scheme, rule, bye-law,
notification or form¹³[made or] issued under the provisions so re-cnacted.

Continuation
or orders, clc.,
issued under
enactments
repealed and
re-enacted.

Miscellaneous.

26. 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 fines⁵ shall apply to all fines imposed under
any Bengal Act²[or West Bengal Act] or any rule or bye-law made under
any Bengal Act "[or West Bengal Act], unless the Act, rule or bye-law
contains an express provision to the contrary.

Act XLV of
1860. Act V of
1898.

Recovery of
fines.

27. Where an act or omission constitutes an offence* under two
or more enactments, then the offender shall be liable to be prosecuted and punished
under either or any of those enactments, but shall not be liable to be punished twice
for the same offence.

Provision as
to offences
punishable
under two or
more
enactments.

28. Where any Bengal Act⁴[or West Bengal Act], made after the commencement
of this Act authorizes or requires any document to be

Meaning of
service by
post.

¹These words were substituted for the words "Calcutta Government" by paragraph 4(1) of the Government of India
(Adaptation or Indian Laws) Order, 1937. See foot-note 4 on page 180. ante.

²This word was inserted by s. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

³These words were inserted, *ibid.*

⁴Sections 386 to 389 of Act V or 1898.

¹⁰See foot-note 4 on page 180, ante.

¹¹The words "Central Government or, as the case may be, the Provincial Government" were originally substituted
for the words "Local Government" by para. 3 of, and Schedule IV to, the Government of India (Adaptation of Indian
Laws) Order, 1937, and [hereafter these words were substituted for the words "Central Government or, as the case
may be, the Provincial Government" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order,
1950.

¹²Marginal note of section 236 concluded.

of 1899.]

For definition of "olTence". *see 3(30). ante,*

(Miscellaneous. —Sections 29—31.)

served by post, whether the expression "serve" or either of the expressions "give" or "send" ~~the Bengal General Clauses Act, 1899,~~ then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying 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. (!) In any Bengal Act [or West Bengal Act], and in any rule, bye-law, instrument or document made under, or with reference to any Bengal Act [or West Bengal Act], any enactment may be cited by reference to the title or short title (if any)² 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 this Act, and in any Bengal Act [or West Bengal Act], . . . made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

30. Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or bye-laws,

31. The provisions of this Act shall apply,

(a) in relation to any Eastern Bengal and Assam Acts as in force in West Bengal and any Regulation made by the Governor under section 92 of the Government of India Act, 1935, as they apply in relation to a Bengal Act or West Bengal Act made by the Provincial Legislature, and in relation to any Ordinance promulgated by the Governor of

Saving for previous Acts, rules and bye-laws.

¹See footnote 4 on page 180, *ante*.

²Short titles have been conferred on all enactments primed in the West Bengal Code.

³Section 31 was substituted for the former section 11 [which was inserted by para. 3 of Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.] by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

Application to Eastern Bengal and Assam Acts and Ordinances and Regulations.

or 1899.]

(Miscellaneous.—Section 31.)

Bengal under section 88 or section 89 of the said Act or by the Governor of West Bengal under section 88 of the said Act, as they apply in relation to a Bengal Act made under

the said Act by the Governor ; 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 sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to a West Bengal Act made by the State Legislature :

Provided that clause (b) of sub-section I of section 6 of this Act shall apply to any Ordinance referred to in clause (h) 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*.

¹Some of the definitions in this section apply also to Bengal Acts made between the 1st June, 1867, and the commencement of the section 5.

²These words were inserted by paragraph (i) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and I

³See Act XLV of 1860, sections 107, 108 and 108A, in Vol. III, Pt. IV, Page 3 of the India Code,

⁴Cf. section 33 of the Indian Penal Code (Act XLV of 1860) in the India Code.

⁵Cf. the definitions of "oath" and "swear" in clauses (29) and (1-t).

For the law relating to judicial oaths, affirmations and declarations, see the Indian Oaths Act, 1873 (X of 1873), in the India Code.

¹¹As to affidavits to be used before Civil Courts, see also section 139 of and rules

A similar definition is given in clause 3 of the General Clauses Act, 1897 (X of 1897), printed in the India Code. The definition was inserted in order to introduce a uniform method of citing Acts of the Bengal Council and to suggest the abandonment of the various other methods formerly adopted, e. g. "Act (B.C.) of 1869," "Act I or 1869 passed by the Lieutenant Governor or Bengal in Council". The method of citation most commonly adopted was "Act I (B.C.) of 1869," but the abbreviation of "(B.C.)" is peculiarly inappropriate, inasmuch as it would stand equally well for Acts of the Bombay or Burma Council, and is the recognised abbreviation for "Before Christ."

¹These words and figures were inserted by s. 3 and the Second Sch. of the Amending Act, 1903 (I of 1903).

²This section was inserted by s. 3 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act I of 1940).

³Sub-section (f) was substituted for the former sub-section by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

The word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁴Section 5 on page 180, *and The Bengal General Clauses Act, 1897*, 190

⁵This word was substituted for the words "His Majesty" by paragraph 4(7), of the Adaptation of Laws Order, 1950.

'See foot-note 4 on page 1 SO, *ante*.

The word, figure and brackets "sub-section (I)," were omitted by para. 3 and Schedule IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

The Bengal General Clauses Act, 1899. 191

These words were inserted by paragraph f 1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

The Bengal General Clauses Act, 1899. 192

These words were substituted for the words "after (the Act has been published as aforesaid" by para. 3 of, and Sch. IV of, the Government of India (Adaptation of Indian Laws) Order, 1937.

The Bengal General Clauses Act, 1899. 193