



Study Notes

Interpretation of Statutes – Meaning and Construction

Introduction

Interpretation of Statutes has been derived from the **Latin word 'Interpretari', which means to explain, understand or translate**. The process, by which the true meaning of the words used in the Statute is ascertained, is known as Interpretation of Statutes. It helps in finding out the true sense of an enactment by giving the words of the enactment its natural and ordinary meaning. However, the rules of interpretation are not needed in case the language used in the statute is clear. In other words, the correct understanding of the law is known as Interpretation of Statutes.

The courts adopted this process for determining the exact intention of the legislature, because the very objective of the court is not merely to read the law but is also to apply it in a meaningful manner to suit different cases. The purpose behind the interpretation is to clarify the meaning of the words used in the statutes which might not be that clear.

Meaning and Definition Interpretation of Statutes

The legal experts have been vested with the power to enact the laws i.e. the Acts and the rules and therefore, many a times, it can be expected that the language used by the experts while enacting the laws will leave room for Interpretation or construction. Interpretation is not needed when the language used for the enactment of the statute is clear. However, in certain cases, more than one meaning may be derived from the same word or sentence. Thus, it is very important to interpret the statute to find out the real intention of the Statute.

According to Salmond, Interpretation is the process by which the court seeks to ascertain the meaning of the legislature which it is expressed.

Thus, Interpretation gives effect to the intention of the legislature. Interpretation is considered to be a point of law always and the courts have the very function to interpret the laws.

➤ **Object of Interpretation**

The very object of Interpretation of the statute is to determine the intention of the legislature conveyed expressly or impliedly in the language used.

➤ **Basic reasons why Interpretation is needed:-**

1. **Legislative Language** –The language used for the enactment is complicated for a layman, and hence, may require interpretation; and
2. **Legislative Intent** – The intention of the legislature or Legislative intent is to incorporate two aspects:-
 - a. The concept of meaning of the words;
 - b. The concept of purpose and object or the reason or spirit pervading through the statutes.

➤ **Principles of Interpretation**

It is very important and fundamental principle of statutory interpretation that the words of a statute be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the legislature.

➤ **Important things to be taken care of in the context of Interpreting Statutes**

1. The intention of the legislature;
2. The statute must be read as a whole in its context;
3. Statute should be construed so as to make it effective and workable – In case, a statutory provision is ambiguous and capable of various constructions, then that construction must be adopted which will give meaning and effect to the other provisions of the enactment rather than that which will give none;
4. If meaning is plain, the effect must be given to it irrespective of consequences;
5. The process of construction combines both literal and purposive approaches. The purposive construction rule highlights that you should shift from literal construction when it leads to absurdity.

➤ **Need for Statutory Interpretation**

1. The words used in the Statute are ambiguous- The words may have two or more meanings and it may not be clear than which of the meanings should be used;
2. Wording may be inadequate- The wordings may be inadequate in many ways, for example, a printing error, or any other error such as the use of a word with a wide meaning which is not defined;
3. Incomplete rules-Many a times there exists few implied rules and regulations, as well as some implied powers and privileges, which are not mentioned in the statute and are not properly defined in the statute and thus, leads to ambiguity.
4. Error in drafting- The drafts may be made without sufficient knowledge of the subject or due to lack of necessary words and correct grammar. These make the draft unclear and create ambiguity in the legislature.
5. Statute having complexities- Usually the statutes are very huge and complex containing words, jargon and some technical terms which are difficult to understand, which may lead to complexities.

STATUTES

Meaning and classification

Statute is also known as Law, Act or enactment and is an edict of the legislature. It is a formal written enactment of a legislative authority that governs a country, state etc. In other words, it is a established rule, formal regulation or ordinances which are enacted by the country. The statute either commands or prohibits something or declares the policies.

Statutes are also regarded as the will of the legislature which is conveyed in the form of text. The term law is used in the Indian Constitution and not the term Statute. The term law includes any ordinance, rule, order, bye-laws, notification etc.

Construction

The word construction, in simple words, means the process of drawing conclusions of the subjects which are beyond the direct expression of the text. Findings are drawn by the courts only after analyzing the meaning of the words used in the text or the statute. This entire process is known as Legal Exposition. Certain sets of facts are pending before the courts and construction is the application of conclusion of these facts. The very objective is to assist the judicial body in determining the real intention of the Legislature. Its aim is also to ascertain the legal effect of the legal text.

Classification of Statutes

The Statutes may generally be classified with reference to its duration, nature of operation, object and extent of application. Statutes are commonly divided into the following:-

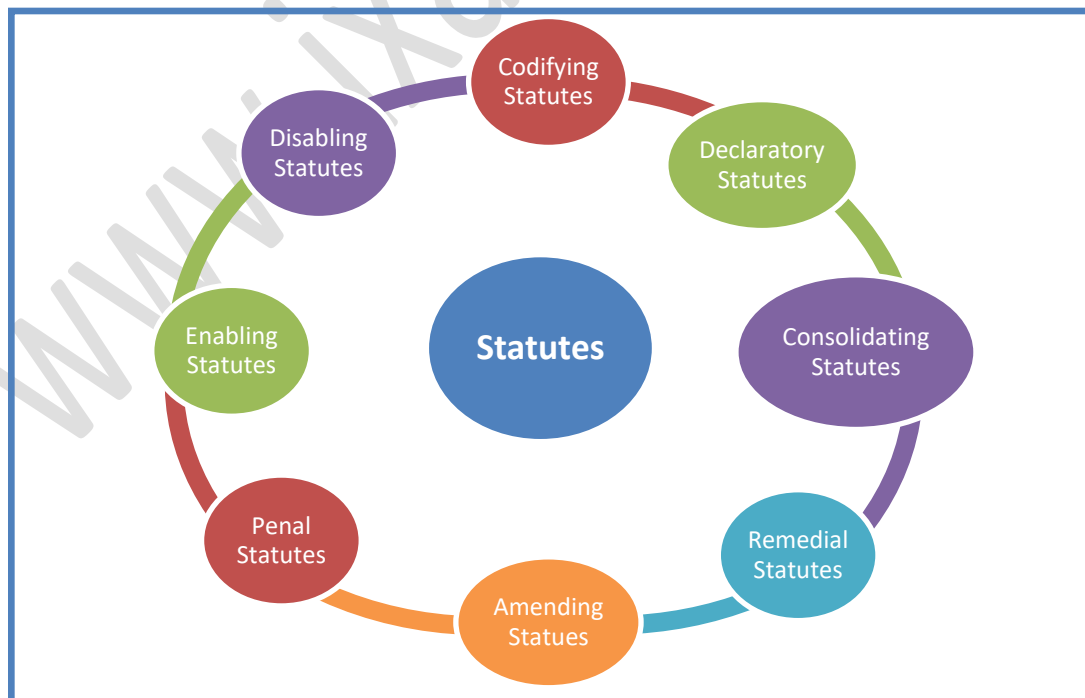


Figure 1: Classification of Statutes

1. **Codifying Statute**- This kind of statute codify the re-write law on a subject, e.g. The Hindu Marriage Act, 1955 and The Hindu Succession Act, 1956.
2. **Declaratory Statute**- This statute removes doubts, clarifies and improves the law based on the interpretation given by the court, which might not be suitable from the point of view of the Parliament, e.g. the definition of house property has been amended under the Income Tax (Amendment) Act, 1985 through the judgment of the Supreme Court.
3. **Consolidating Statutes**- This statute consolidates several previous statutes relating to the same subject –matter, which were lying scattered at different places, with or without alterations of the substance, e.g. Indian Penal Code or the Code of Criminal Procedure.
4. **Remedial Statutes**- Those statutes which alter the common law or the judge-made law i.e. non-statutory laws. In other words, when new remedies are granted for enforcing one's rights it is done through the remedial statutes. The very purpose of these kinds of statutes is to promote the general welfare in order to bring social reforms through the system. These statutes are not interpreted through strict means and thus, have liberal interpretation, e.g. The Workmen's Compensation Act, 1923, The Maternity Benefits Act, 1961 etc.
5. **Amending Statutes**- Through these, the statute laws are altered i.e. when the original law changes, due to the changes in the provisions of the enactment in order to make improvements therein and for carrying out the provisions effectively for which the original law was passed, e.g. Code of Criminal Procedure 1973 amended the code of 1898. Limited Liability Partnership Act, 2008, the Specific Relief (Amendment) Act, 2018 amended the Specific Relief Act, 1963 etc.
6. **Penal Statutes**- These statutes impose a penalty or forfeiture for the various types of offences and the provisions have to be imposed very strictly, e.g. Indian Penal Code, 1860.
7. **Enabling Statutes**- Through these statutes the various restrictions or disabilities are removed. The very purpose of this statute is to enlarge a particular common law.
8. **Disabling or restraining Statutes**- Through this statute the rights confirmed by common law are being cut down and are being restrained.

Aids to Construction of Statutes

The term aids is the means or instruments by the assistance of which something is done, obtained or explained. In the context of construction or interpretation of statute, aids help in explaining the meaning of a word, expression or phrase. For the very purpose of construction of the statutes, the aids to construction have been divided into two main categories. They are as under:-

1. *Internal Aids to the construction of statute;*
2. *External aids to the construction of the statute.*

1. **Internal Aids to Construction**

a. **Title-** There are two types of titles :-

- **Long title** – The long title of an Act is considered to be the part of the Act and hence, is admissible as an aid to its construction. The statute begins with the long title which gives description of the object of that Act. It is also used by the courts to interpret certain statutory provisions of the statute and also helps in removing the ambiguity and confusion in the Act. In order to decide the scope of the Act long title of the Act is relied upon.
- **Short title-** Short title is not considered as a useful guide for the construction of an Act and is only considered as an abbreviation for the purpose of reference and identification of an Act.

b. **Preamble-** It is a part of the Act and is admissible aid to construction. Preamble is that part of the Act where the reason behind its enactment is found and the main aim and objective of the Act is also found.

c. **Headings-** These are considered as a sort of nomenclature, name, title or caption which supplies a key to the interpretation of clauses under it and helps to know the intent of the proviso. Headings are also regarded as a Preamble to the Proviso. Headings have been classified into two groups as:-

- Short Headings- These are prefixed to sections;
- Long Headings- These are prefixed to a set or a group of sections.

d. **Marginal notes or head notes-** These are inserted at one side of the section and declare the effect of the section. In other words, a marginal note is a brief précis of the section and forms a most unsure guide to the construction of the enacting section. In the past these marginal headings were considered to be useful but now they cannot be used for construing the section.

e. **Punctuation-** This is one of the minor elements in the construction of the statute. It is to be given importance only when there is proper punctuation used and when there is no doubt about its meaning. Punctuation has its own use and value; however, it cannot control the plain meaning of a text.

f. **Illustrations-** These are the examples or instances appended to a section in order to explain the provision of law contained in a statute. Illustrations form a part of the section and are relevant and useful in the construction and elucidation of the text of the section.

g. **Definition or Interpretation Section-** Every statute contains a definition clause. These definitions pertain to certain words occurring in the statute and to avoid the necessity of

frequent repetitions in describing the same subject matter to which the word or expression defined is intended to apply. Further, the definition clause of one particular act is applied only on that particular Act and not any other Act.

The definition section is divided into three types:-

- Ambiguous definition;
- Definition subject to a contrary context;
- Restrictive and Extensive definitions.

- h. **Proviso-*** A Proviso is ordinarily understood to carve out an exception from the general rule enacted in the main provision. It provides examples of specific cases which are given to such cases where general words require special meaning for it. Exception is intended to restrain the enacting cause to particular cases, Proviso is used to remove the special cases of general enactment and give them special recognition and a saving clause is used to protect the destruction of certain rights, privileges and remedies already existing. Further, explanations remove doubts which may arise if the explanation is not given.
- i. **Explanation-*** In order to explain and elaborate the meaning of the words contained in the section explanations are sometimes appended to the section. The main purpose behind providing this explanation is to explain, clarify, interpret, define, and elucidate what is provided in the section or the proviso. As a result of which it becomes a part and parcel of the enactment.

2. **External Aids to Construction**

When the internal aids of construction fall short or are not adequate, courts take recourse to the external aids. In cases where internal aids are not imminent, then recourse to external aids is considered in order to discover the object of the legislation. Hence, external aids are not ruled out, and therefore, forms a part of the modern statutory construction.

- a. **Historical background-*** When the language of the statute is clear and unambiguous the need to refer to any external aid is not needed. The historical facts and surrounding circumstances must give way to the clear language of the statute. In other words, historical background can be used as one of the aids, if the words are plain and clear. However, if the wordings are ambiguous, historical aid may be considered for arriving at a proper construction.

Historical facts and circumstances, as a form of external aid, surrounding the legislation is necessary and quite useful in understanding the subject matter of the statute and thereby, to arrive at the legislative intent.

- b. **Judicial Decisions-*** It is to be ensured that the judicial decisions taken as reference should be Indian; however, if foreign decisions are taken as reference then it should be ensured that such a foreign country follows the same system of jurisprudence as Indian and the decisions have been taken in the ground of the same laws as Indian. However, it

is to be noted that the foreign decisions have persuasive value only and hence, not binding on Indian Courts.

Priority should always be given to the Indian Judgments and where guidance is available from binding Indian decisions, then reference to foreign decisions is of no use.

- c. **Dictionary-** In case the word is not defined in the Act or its meaning is not clear in the statute, then it is permissible to look into the dictionary for figuring out the meaning of those words and the general sense in which that word is understood in common parlance.

Further, a word which has different legal definitions, than out of those meanings a suitable meaning in regard to the context, scheme and legislative history in which the word is used has to be selected.

- d. **Social, Political and Economic Developments and Scientific Inventions-** The Interpretation of the statutes must include the circumstances which were unknown at the time of the enactment of the statute. A change in the social condition which has occurred and has produced novel situations which were not in contemplation at the time when the statute was first enacted, then there can be no prior assumption that the enactment does not apply to the new circumstances. In case the language of the enactment is wide enough to extend to those circumstances, then it is to be applied.

Thus, any important or relevant change in the social conditions or scientific changes in terms of technology is always to be given due importance and the courts should take into account all these developments while the statutory provisions are construed.

- e. **References to other statutes-** The statutes are considered to be in *pari materia* which means pertaining to the same subject-matter and having the same person or thing or same purpose. The statute must be read as a whole is the cardinal rule of interpretation and when this is extended in its application it permits references to other statutes in *pari materia*.

In cases when two statutes have to be read together, then each part of every Act has to be construed as if contained in one composite Act. However, if there is some clear discrepancy than the later Act than it would modify the earlier. If a single provision of one Act has to be read or added in another than it has to be read in the sense in which it was originally construed in the first Act. Therefore, the whole of the first Act has to be mentioned or reference has to be made in the second Act, even though only a provision of the earlier Act was taken.

When an old Act has been repealed then in that case it loses its operative force but the repealed part may be considered for construing the unrepealed part. The courts can refer to other statutes for the interpretation or construction of a statutory provision and is known as statutory aid. The application of this rule helps in avoiding contradiction between a series of statutes dealing with the same subject-matter. This rule further, allows the use of the earlier statute to throw light on the meaning of a word, phrase etc which is used in the later statute in the same context.