—— CHAPTER 3 ——
IMPORTANT PROVISIONS IN MAJOR LAWS

[A] THE GENERAL CLAUSES ACT, 1897

3.01 The General Clauses Act, 1897 was enacted to consolidate and extend the General Clauses Acts, 1868 (1 of 1868) and 1887 (1 of 1887). It is a consolidating and amending Act with a purpose to avoid superfluity and a repetition of language; and to place in a single Act, provisions as regards definitions of words and legal principles of interpretation which would otherwise have to be incorporated in different Acts and Regulations. The definition and the rules of interpretation contained in the General Clauses Act have to be read in every other Statute governed by it, provided the statue does not contain anything repugnant to them in the subject or context or does not exhibit a different intention. As per Article 367, this Act is also applicable for interpretation of the Constitution. Section 3 of the Act is the Interpretation Clause having definitions of certain terms, which wherever occur in any Central Act, shall be construed as such unless different meaning is assigned to that term in that Central Act. **[Annexure 3.01]**

3.02 The Provinces adopted the said statute for the purpose of interpretation of State Acts and therefore the Bombay General Clauses Act, 1904 was passed, which is known as the Maharashtra General Clauses Act at present. **[Annexure 3.02]**

3.03 Some of the important definitions in the General Clauses Act, 1897 are reproduced as under----

Section 3 (1) **Abet,** with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (XLV of 1860). **Abetment** does not in itself involve the actual commission of the crime abetted. It is a crime apart.

Section 3 (2) 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.

Section 3 (3) **affidavit** shall include affirmation and declarations in the case of persons by law allowed to affirm or declare instead of swearing.

Section 3 (7) Central Act shall mean an Act of Parliament, and shall include—
- (a) An Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of Constitution, and
- (b) An Act made before such commencement by the Governor-General-in-Council or the Governor-General, acting in a legislative capacity.

Section 3 (59) State Act shall mean Act passed by the Legislature of a State established or continued by the Constitution.

Section 3 (8) Central Government shall—
- (a) In relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General-in-Council as the case may be; and shall include,--
  - (i) in relation to functions entrusted under sub-section (1) of section 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section; and
  - (ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of section 64 of the Act; and
- (b) in relation to anything done or to be done after the commencement of the Constitution means the President, and shall include-
  - (i) in relation to functions entrusted under clause (1) of Article 258 of the Constitution to the Government of a State, the State Government acting within the scope of the authority given to it under the clause;

(ii) in relation to the administration of a Part C State [before the commencement of the Constitution (Seventh Amendment) Act, 1956] the Chief Commissioner or the Lieutenant-Governor or Government of a neighbouring State or other authority acting within the scope the authority given to him or it under Article 2 3 9 or Article 243 of the Constitution, as the case may be; and

(iii) in relation to the administration of a Union territory the administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution.

Section 3 (60) **State Government—**

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorized at the relevant date to exercise executive Government in the corresponding acceding State, and in a Part C State, the Central Government;

(b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a Part A State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean in a State, the Governor and in a Union territory, the Central Government;

and shall in relation to functions entrusted under Article 258-A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that Article.

Section 3 (11) **Collector** shall mean, in a Presidency-town, the Collector of Calcutta, Madras, or Bombay, as the case may be and elsewhere, the chief officer-in-charge of the revenue administration of a district.

Section 3(18) **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.

Section 3 (19) **enactment** shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras, or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid.

Section 3 (50) **Regulation** shall mean a Regulation made by the President under Article 240 of the Constitution and shall include a Regulation made by the President under Article 243 thereof and 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.

Section 3 (20) **father**, in case of any one whose personal law permits adoption, shall also include adoptive father.

Section 3 (57) **son** in case of any one whose personal law permits adoption, shall include an adopted son.

Section 3(21) **financial year** shall mean the year commencing on the first day of April.

Section 3(22) 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.

Section 3 (23) **Government or the Government** shall include both the Central and any State Government.

Section 3 (26) **Immovable Property** shall include land, benefits to arise out of land and things attached to earth, or permanently fastened to anything attached to the earth.

Section 3 (35) **movable property** shall mean property of every description, except immovable property.

Section 3 (27) **Imprisonment** shall mean imprisonment of either description as defined in the Indian Penal Code (45 of 1960).

Section 3(28) **India** shall mean—

(a) as respects any period before the establishment of the Dominion of India, British India, together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal areas;

(b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and

(c) as respects any period after the commencement of the Constitution all territories for the time being comprised in the territory of India.

Section 3 (29) **Indian law** shall mean any Act, Ordinance, Regulation rule, order, bye-law or other instrument which, before the commencement of the Constitution, had the force of law in any Province of India or part thereof, or thereafter, has the force of law in any Part A State or Part C State or part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act.

Section 3 (30) **Indian State** shall mean any territory which the Central Government recognized as such a State before the commencement of the Constitution, whether described as State, an Estate, a Jagir or otherwise.

Section 3 (35) **month** shall mean a month reckoned according to the British calendar.

Section 3 (37) **oath** shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.

Section 3 (38) **offence** shall mean any act or omission made punishable by any law for the time being in force.

Section 3 (39) **official Gazette or Gazette** shall mean the Gazette of India or the official Gazette of a State.

Section 3 (41) **Part A State** shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, as in force before the Constitution (Seventh Amendment) Act, 1956, Part B State shall mean a State for the time being specified in Part B of that Schedule and Part C State shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provision of Article 243 of the Constitution.

Section 3 (42) **person** shall include any company or association or body of individuals, whether incorporated or not.

Section 3 (44) **Presidency-town** shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature, at Calcutta, Madras, or Bombay, as the case may be.

Section 3 (45) **Province** shall mean a Presidency, a Governor's Province, a Lieutenant-Governor's Province or a chief Commissioner's Province.

Section 3 (46) **Provincial** Act shall mean an Act made by the Governor-in-Council, Lieutenant Governor-in-Council or Chief Commissioner in Council of a Province under any of the Indian Council Acts or the Government of India Act, 1915, as an Act made by the local Legislature or the Governor of a Province under the Government of India Act, or an Act made by the Provincial Legislature or Governor of a Province or the Coorg Legislative Council under the Government of India Act, 1935.

Section 3 (47) **Provincial Government** shall mean, as respects anything done before the commencement of the Constitution the authority or person authorized at the relevant date to administer executive Government in the Province in question.

Section 3 (49) **registered** used with reference to a document, shall mean registered in India under the law for the time being in force for the registration of document.

Section 3 (51) **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.

Section 3(54) **section** shall mean a section of the Act or Regulation in which the word occurs.

Section 3(56) **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.

Section 3(58) **State—**
(a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State.
(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory.

Section 3 (61) **sub-section** shall mean a sub-section of the section in which word occurs.

Section 3(62) **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.

Section 3(62-A) **Union territory** shall mean any Union territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule.

Section 3 (64) **will** shall include codicil and every writing making a voluntary posthumous disposition of property.

Section 3 (65) 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.

Section 3 (66) **year** shall mean a year reckoned according to the British calendar.

[B] THE CODE OF CRIMINAL PROCEDURE, 1973

3.04 General

Special Laws having provisions related to inquiry, investigation, trial and other proceedings viz. the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 etc. presume that the person, responsible for implementing them is conversant with the relevant provisions pertaining to such proceedings given in Major Criminal Laws, namely, the Code of Criminal Procedure, 1973, the Indian Penal Code, 1860 and the Indian Evidence Act, 1872. Sections 4 and 5 of the Code of Criminal Procedure are relevant, which are reproduced for appreciating the applicability of such special Laws vis-à-vis the Code of Criminal Procedure, 1973----

Section 4. Trial of offences under the Indian Penal Code and other laws
(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereunder contained.
(2) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Section 5. Saving.—Nothing contained in this Code, shall in absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

3.05 Thus in absence of any specific provision with respect to any aspect in any special Law, the provisions contained in the Code of Criminal Procedure, 1973 shall be applicable. Now the relevant definitions in section 2 under the said Code are reproduced as under---

Words and Expression used in the Code of Criminal Procedure and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in the Indian Peal Code.

Section 2 (n) **Offence.-** Means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871.