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19 (IV) ISPL 4·5 (H₅)

2019

**INTERPRETATION OF STATUTES
AND PRINCIPLES OF LEGISLATION**

Paper : 4·5 H₅

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

1. Fill in the blanks with appropriate answer :
10×1=10
 - a) Interpretation is the primary function of a _____. [Legislature / Court / High Court]
 - b) The epithets 'mandatory' and 'directory' are applied to enabling statutes, the former also creating _____ but the latter not doing so. [duties / rights / obligations]

Contd.

- c) "The essence of law lies in the spirit, not its _____, for the letter is significant only as being the external manifestation of the intention that underlies it" — Salmond [letter / words]
- d) A Statute may generally be _____ with reference to its duration, nature of operation, object and extent of application. [classified / applicable]
- e) The Constitution of India does not use the term 'Statute' but it uses the term _____ [law / Act] does not distinguish. [distinctions / interpretation]
- f) *Expressio unius est exclusio alterius* i.e. the express mention of one person, thing, or consequence implies the _____ of all others. [exclusion / inclusion]
- g) A statute does not have retrospective effect to a date earlier than its becoming _____ [law / Rule]
- h) The mischief rule is a rule of statutory interpretation that attempts to determine the _____ intention. [legislator's / court's]
- i) Schedules attached to an Act generally deal with as to how claims or rights under the Act are to be _____ or as to how powers conferred under the Act are to be exercised. [observed / asserted / performed]
- j) It is not the duty of the Court either to enlarge the scope of the legislation or the intention of the legislature when the language of the provision is _____ and unambiguous. [plain / effective]
2. Write short notes on the following : 5×2=10
- a) Objects of 'interpretation'
- b) Non-obstante clause
- c) *Reddendo singula singulis*
- d) Colourable legislation
- e) Prospective overruling.

3. Discuss the importance of the following in interpretation of statutes : $4 \times 3 = 12$

- a) Headings and marginal notes.
- b) Exceptions, provisos and saving clauses.
- c) Legislative Intention and Statement of objects.

Or

Discuss and illustrate the Golden Rule as applied to the interpretation of statutes. Is this rule different from the Literal Rule? If so, explain giving examples. $4 + 8 = 12$

4. Distinguish between penal and remedial statutes and the rules of interpretation applicable to them. 12

Or

Explain and illustrate the rule *ejusdem generis* as applied to statutory interpretation. Is there any distinction between the rule of *noscitur a sociis* and the rule of *ejusdem generis*? If so, discuss giving examples.

$8 + 4 = 12$

5. "The rule of construction is well-settled that when there are in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is what is known as the rule of harmonious construction". Elucidate the above statement with reference to decided cases. 12

Or

'Where two provisions operate on one field, both have to be allowed to have their play, unless such operation would result in patent inconsistency'. Elucidate the statement referring to the Rule of construction to be applied in the given case. 12

6. 'The soundness of *Heydon's Rule* lies in suppressing the mischief and advancing the remedy.' Elucidate the statement. What are the conditions for the application of this rule? Discuss. 12

Or

Write notes on the following : $6 + 6 = 12$

- (a) Doctrine of Pith and Substance
- (b) Prospective overruling.

7. Critically examine the importance of the following in interpretation of statutes : 6+6=12

(i) Preamble and Long Title.

(ii) Explanation.

Or

Is there any distinction between penal and remedial statutes and the rules of interpretation applicable to them ? Discuss the present trend in interpretation of penal statutes. 6+6=12

2017

**INTERPRETATION OF STATUTES AND
PRINCIPLE OF LEGISLATION**

Paper : 4.5 (H.5)

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

***Answer Q. Nos. 1 & 2 and
any five questions from the rest.***

1. Answer the following : 1×10=10

(i) The _____ is that the words of a statute must prima facie be given their ordinary meaning.

(golden rule/mischief rule)

(ii) With the exception of private and local laws, title does not play any significant part in the interpretative process and may not be looked at to modify the interpretation of plain language.

(True/False)

Contd.

- (iii) In the case of an enactment whose purpose is to protect human life, the presumption that *mens rea* is a necessary component _____.
(does not apply/apply)
- (iv) Where the main provision is clear its effect _____ cut down by the proviso. (cannot/can be)
- (v) Having carefully interpreted a particular provision of the Constitution, the Supreme Court should as far as possible stick to the doctrine of _____.
(*Stare decisis/Obiter dicta*)
- (vi) It is sound rule of construction that procedural enactments should be construed _____.
(liberally/strictly)
- (vii) If the words used in a criminal statute are reasonably capable of two constructions, the construction which is favourable to the accused should be preferred.
(*True/False*)
- (viii) In interpreting a fiscal statute, the Court _____ proceed to make good deficiencies. (can/cannot)

- (ix) *Noscitur a sociis* (Associated words) – This maxim lays down that the meaning of a word _____ gathered from the context, or by the company it keeps.
(cannot/can be)
- (x) Extrinsic aids may be employed in the construction of statutes if the words and language employed are _____ from ambiguity and which cannot be cleared even by resort to intrinsic aids.
(not free/free)

2. Answer the following : 2×5=10

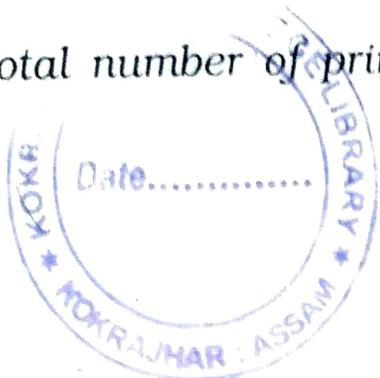
- (a) Rule of harmonious construction
(b) Rule of *Ejusdem Generis*
(c) Doctrine of eclipse
(d) Rule of interpretation of taxation laws
(e) Preamble as a guidance for interpretation.

3. What is the mischief rule of interpretation? When can it be applied? Point out the shortcomings of this rule. 6+3+3=12

4. Discuss the scope of preamble, title, marginal notes, illustration and interpretation clause as internal or intrinsic aid of interpretation of a statute. 12

5. Explain literal rule of interpretation. Can this rule be taken as conclusive in all cases ?
12
6. Discuss the circumstances in which extrinsic aids may be employed in place of intrinsic aids in interpreting a statute.
12
7. How does the constitutional interpretations differ from interpretations of other statutes ? Illustrate with the help of decided cases.
12
8. Write short notes : 2×6=12
(a) *Delegatus non potest delegare*
(b) *Expressio unius est exclusio alterius.*
9. Distinguish between mandatory and directory provisions of a statute. What is the difference in the interpretation of this two rules ? Explain.
12
10. Discuss the general rules of interpretation in interpreting taxation laws.
12

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19 (3-IV) INST 4·6 H5

2016

**INTERPRETATION OF STATUTES AND
PRINCIPLES OF LEGISLATION**

Paper : 4·6

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

Answer the following :

1×10=10

1. (i) _____ defines legislation as “the formal utterances of the legislative organs of the society.” (Holland/Gray)
- (ii) The _____ is that the words of a statute must prima facie be given their ordinary meaning. (golden rule/mischief rule)

Contd.

- (iii) The _____ of interpretation is that the court must first try to ascertain the intention of the legislature from the words used. (Golden rule/Literal rule)
- (iv) A construction which the language of the statute can bear and promotes a larger national purpose must be preferred to a _____ literal construction tending to promote factionatum and discord. (strict/liberal)
- (v) As long as there is no ambiguity in the statutory language resort to any interpretative process to unfold the legislative intent _____. (permissible/not permissible)
- (vi) Principles governing interpretation of the Constitutional provision should be _____. (strict/liberal)

- (vii) To ascertain the meaning of a Section it is _____ to omit any part of it, the whole Section should be read together and an attempt should be made to reconcile both parts. (not permissible/permissible)
- (viii) A taxation statute is to be construed _____. (strictly/liberally)
- (ix) The presumption against retrospective effect of the legislation is stronger in _____. (Penal enactments/Civil legislations)
- (x) In an enactment marginal notes are known as _____. (side notes/foot notes)

2. Answer the following : 2×5=10

- (a) Rule of Eiusdem Generis.
- (b) Non-obstantate clause.
- (c) What is interpretation of statute ?

(d) Rule of interpretation of penal laws.

(e) Colourable legislation.

3. What are extrinsic and intrinsic aids of interpretation of a statute? Explain each of them briefly by pointing out their scope.

6+6=12

OR

Discuss and exemplify the literal rule of interpretation and also various presumptions of interpretation.

12

4. Explain the role of Preamble of the Constitution and the debates of the Constituent Assembly in interpreting the provision of the Constitution of India.

12

OR

Write an essay on interpretation of the Constitution. Point out the differences between Constitutional interpretation and Interpretation of Statutes.

12

5. What is mischief rule and when may it be applied? Point out its shortcomings.

12

OR

What do you mean by "Colourable legislation" and "harmonious construction"? Explain with the help of leading decided cases.

12

6. Discuss in detail the rule of strict construction of penal statutes. Do you find any relaxation of this rule in modern days?

12

OR

Distinguish between mandatory and directory provisions of a statute. What are the tests generally employed to determine whether a particular provision in a statute is mandatory or directory? Explain.

12

7. Explain **any two** of the following :

2×6=12

(i) Delegatus non potest delegare

(ii) In pari delicto potior est conditio possidentis

(iii) utres valet potior quam pareat

OR

Discuss the principles of interpretation of Welfare legislation. Cite case-law. 12

