

Chapter-15

(4-10m)

Interpretation of statute

Imp. Jan 25, 17/12/2

Ques-1 Difference between Interpretation & construction.

Ans-1. Interpretation differs from construction.

2. Interpretation is of finding out the true sense of any form, & the construction is the drawings of conclusion representing subject that lies beyond the direct expression of the text.

3. Where the court adheres to the plain meaning of the language used by the legislature, it would be 'interpretation' of the words, but

4. Where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. Here, the court would be ascertaining what is 'construction'.

Rule of Interpretation:

(A) PRIMARY RULES:

Rule of Literal Construction

Rule of Reasonable Construction

Rule of Beneficial Construction

Rule of Harmonious Construction

Rule of Exceptional Construction

Rule of Eiusdem generis

(B) SECONDARY RULES:

• Nascitur a sociis

• Expressio unius Est

Exclusive alterius

• Contemporanea

Expositio.

Ques-2 Explain Expressio Unius Est Exclusio Alterius.

Ans- a) This maxim^(-lexm) means that Express mention of one thing implies the exclusion of another.

b) As per this maxim, if two or more thing belonging to a particular class are mentioned other members of the class are silently excluded/excluded.

Example - Where a statute refers to lands, house and coal mines, other mines except coal mine are excluded & 'other mines' cannot be made to fall within the general term 'lands'.

Ques-3 Explain Nascitur a Sociis (Construction of associated words)

Ans- a) The meaning of a word is derived from its associate words, i.e. the meaning of a word is to be judged by the co. it keeps. The words in a statute are construed with reference to the words found in immediate connection with them.

b) If two or more words are capable of analogous (similar or parallel) meaning are grouped together they should be understood in cognate sense, i.e. they take their colour from each other & are given a similar or related meaning.

Example - Plant & machinery / Plant + trees.

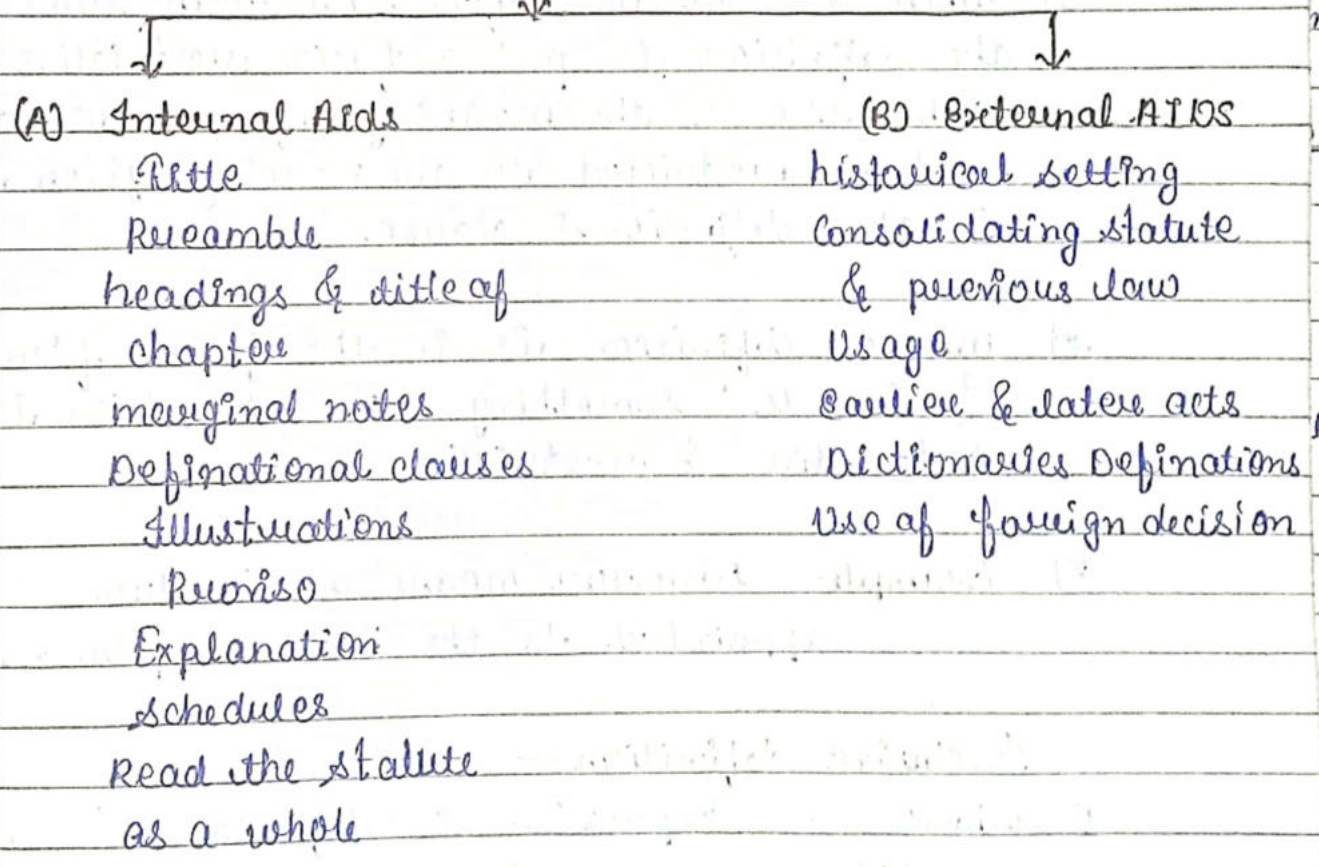
Ques-4 Contemporanea Expositio

Ans- 1) The maxima "Contemporanea Expositio" means interpreting a statute by reference to the expositio it has received from contemporary authority.

2) where the language is ambiguous, the court shall pay due regard to the interpretation that the language of the act has received over a long part of time.

3) Expose the laws to new circumstances & technology.

AIDS of INTERPRETATION



Ques-5 Explain marginal notes.

Ans-1) Marginal notes are essentially a heading / title to the section.

2) Marginal notes summarize the effect of a section.

3) Marginal notes are printed at the left hand margin of the sections in an enactment. But, acts published by private publishers show the marginal notes at the top of the section.

Ques-6 Explain Exhaustive & Inclusive definition.

Ans- Exhaustive definition-

1) When a word is defined to 'mean' something, the definition is prima facie restrictive & Exhaustive & the meaning of such word must be restricted to the meaning given to in the definitional clause.

2) Where definition is in the form of 'mean & include' something, the definition is Exhaustive & restrictive.

3) Example- Director means a director appointed to the Board of Company.

Inclusive definition-

1) Where an expression is defined to 'include' something, the definition is prima facie Extensive & its meaning can also include something else in addition to the meaning

assigned to it in the definitional clause.

2) A definition in the form of 'is deemed' to include' is an inclusive definition.

3) A definition in the form of 'to apply and to include' is an inclusive definition.

4. Example - whole time directors includes a director in the whole time employment of the company.

Ques-7 Illustration

Ans- 1) Illustrations are examples appended to a section.

2) Illustrations are inserted to clarify the scope and object of the subject.

3) Illustrations are considered in constructing as neither curtail nor expand the ambit of the section.

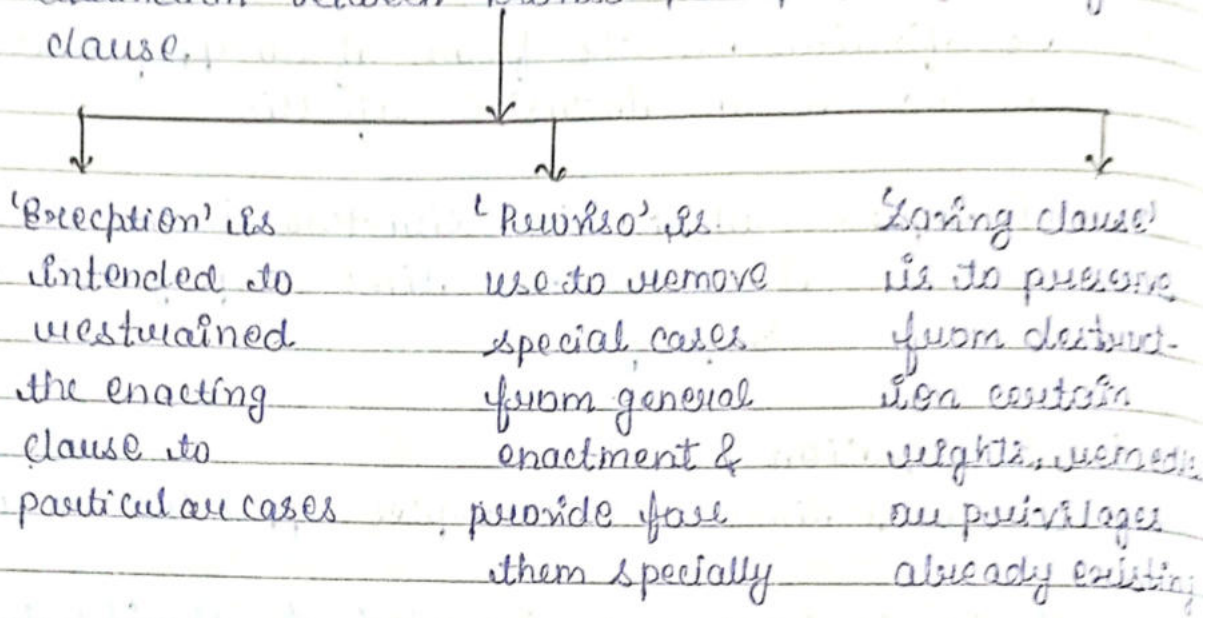
4) If there is a conflict b/w the section & illustration, the section will prevail.

Ques-8 Preamble

Ans- 1) The normal function of a preamble is to expect something out of the enactment or to qualify something stated in the enactment which would be within its purview if the preamble were not there.

Q) As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment.

Q) Distinction between Proviso, Exception & Saving clause.



Ques

Ques-9 Explanation -

Ans-1) An explanation is generally a clarification of the legislative mind. It explains the meaning of the words contained in the section.

Q) Object of an Explanation - The purpose of explanation is to:

- (a) include something within a section or to exclude something from it, or
- (b) clarify any ambiguity in the main section, or,
- (c) explain the meaning of the section, or
- (d) make the main section more meaningful & purposeful.

Ques-10 Explain effect of usage or custom & practise.

Ans-1) Usage is also sometimes taken into consideration in construing an act.

2) The acts done under a statute provide quite often the key to the statute itself.

3) It is well known that where the meaning of the language in a statute is doubtful, usage - how the language has been interpreted & acted upon over a long period - may determine its true meaning.

4) In this question remember two maxims -

(i) The customs is the best interpreter of the law.

(ii) The best way to interpret a document is to read it as it would have been read when made.

Ques-11 Use of foreign decisions.

Ans- (i) foreign decisions of countries following the same system of law as ours & given on laws similar to ours can be legitimately used for construing our own acts.

(ii) However, prime importance is always to be given to the language of the Indian statute.

(iii) further, where guidance can be obtained from Indian decisions, reference to foreign decision may become unnecessary.

Date 28/05/24

Que-12 What are the rules for interpretation/ construction of deeds & documents?

Ans-1) find out what a reasonable man, who was taken care to understand of the surrounding circumstances of a deed or document

2) Understand the scope by the words used in the documents or deed.

3) The same word cannot have two different meanings in the same document, unless the context compels the adoption of such a rule

4) Ascertain the intention of the parties to the instrument after considering all the words in the document / deed concerned in their ordinary, natural sense.

5) It may also happen that there is a conflicts between two or more clauses of the same document. An effort must be made to resolve the conflicts by interpreting the clauses so that all the clauses are given effect

6) If however, it is not possible to give effect to all of them, then it is the earlier clauses that will over-ride the latter one.

Ques-13 Explain Rule of literal construction.

Ans-

- 1) Where the words are clear, the language is plain, and only one meaning can be derived, then the words should be followed literally.
- 2) The language used in a statute must be construed according to the rules of grammar unless the language is ambiguous or its literal sense gives rise to any anomaly.
- 3) The words and sentences of a statute must be given their ordinary & natural meaning.
- 4) It is presumed that words & phrases in a technical legislation have a technical meaning & hence to be interpreted accordingly. However, if a word has no technical meaning, it is given the ordinary meaning.
- 5) If a provision relates to a particular trade, the words used therein must be given that meaning which everybody conversant with that trade understands.

Ques-14 Rule of reasonable construction (logical construction)

Ans-1) If the words used in a statute are clear and unambiguous but on close scrutiny it may turn out to be deficient in understanding the intention of law, then reasonable construction should be used.

2) The court has to look into the circumstances which prevailed when the statute was passed.

3) The words of a statute must be constructed so as to lead to a rational, fair and sensible meaning.

Que-15 Hydon's rule / mischief rule.

Ans -

1) It may be applied if the words used in a statute are ambiguous and are capable of more than one meaning.

2) If the literal meaning fails, the court may depart from the dictionary meaning and give it a meaning which will advance the remedy & suppress the mischief.

3) The court shall consider the following four matters -

(a) what was the law before making of the act?

(b) what was the mischief or defect, which the law did not provide?

(c) what is the remedy that the act has provided?

(d) what is the reason for the remedy?

4) After the court has considered the above four matters, the rule requires the court to adopt the construction which

will suppress the mischief & advance the remedy.

Ques-16 Rule of Harmonious Construction.

Ans-

1) When there is a conflict between two or more provisions, harmonious construction is to be adopted.

2) Where two provisions related to the same subject matter, these should be reconciled & effect must be given to both of them.

3) If it is not possible to harmonize the two conflicting provisions, the recourse shall be as follows-

(a) The provision enacted or amended later in point of time shall prevail.

(b) The court shall find out which provision is more general & which is more specific.

Ques-17 Rule of Eiusdem generis.

Ans-

1) The term 'Eiusdem generis' means same class or species.

2) The rule states that general words following specific words are to be construed with reference to the words preceding them.

3) The specific words contained in the law must constitute a class or category.

4) The specific words must be of the same kind or nature.

5) The specific words must not exhaust the whole category.

Example - when the law uses the words such as oxen, bulls, goat, cows, buffaloes, the words 'etc' cannot include wild animals like lion & tiger.