SYNOPSIS

Extent

The extent of an Act is the territory for which it is law.^[1]

Territorial extent of legislation

A law is considered to govern only the territory to which it expressly extends—this is the area where it has legal effect. Typically, an Act will mention its extent in Section 1. For example, Section 1(2) of the Income-tax Act, 1961 states:

> "It extends to the whole of India."

As a general rule, a law applies to all persons and matters within its territorial extent, and not beyond, unless a contrary intention is shown. Most countries, including India, do not legislate for the entire world, except in rare cases like international crimes (e.g., torture).

Indian laws apply to:

- Indian citizens (within India), and
- Foreigners who enter or reside in India (even temporarily), thereby subjecting themselves to Indian jurisdiction.

[1] Bennion Sec 4.1

The principle of territoriality means laws are presumed to apply only within the boundaries set by the legislature's jurisdiction. Even within Indian territory, Parliament may exclude certain areas. Prior to 2019 (i.e., before the Jammu and Kashmir Reorganisation Act, 2019, which came into effect on 31st October 2019), several Central Acts did not extend to Jammu & Kashmir.

This position is constitutionally backed by Article 245 of the Constitution of India, which provides:

> "Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State."

Legislative reach beyond national borders

As a general rule, each sovereign country is expected to legislate only for its own territory, in line with the international principle of comity among nations. This means that a nation's laws do not usually apply to acts or omissions that occur outside its borders, regardless of whether those acts involve its own citizens or foreigners.

However, international law recognizes that a country may regulate the conduct of its own citizens, even when they are abroad. Therefore, a nation may enact laws that apply extraterritorially to its nationals, so long as such laws do not interfere with the sovereignty of other nations.

Such extraterritorial legislation does not become law in the foreign territory, but it may assign legal consequences under the law of the originating country for actions occurring outside its borders. In this way, the law may attach legal significance to foreign conduct, without claiming legal force over another state's territory.

Extraterritorial legislative power of Parliament

In India, only the Parliament, not the State Legislatures, has the authority to enact laws with extraterritorial effect, similar to the powers held by fully sovereign nations. This means Parliament can make laws that apply outside the territory of India, especially in relation to Indian citizens or matters having a nexus with India.

This power is explicitly recognized in the Constitution of India under Article 245(2), which states:

> "No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation."

Thus, as long as Parliament has legislative competence, the fact that a law operates beyond Indian territory does not make it unconstitutional.

Territorial nexus and extraterritorial taxation

The Constitution does not prohibit extraterritorial legislation, but such laws must have a territorial nexus with India. In *Ishikawajima-Harima Heavy Industries Ltd. v. DIT* (2007) 3 SCC 481, the Supreme Court held that income without sufficient territorial connection to India cannot be taxed, even under deeming provisions. The ruling emphasizes the principle of harmonious construction of tax statutes with the Constitution.

Application

Principle of uniform application

If a law extends to more than one area (such as multiple states or union territories), it is presumed to have the same meaning and application in all those areas—unless the law itself says otherwise. This is known as the principle of uniform application.

Effect of omission to act

When considering whether a law applies to an act, the failure to act (omission) is generally treated as having occurred where the act should have been done—unless the law says otherwise. If parts of an act or omission occur in multiple territories:

- It may be considered as occurring in every place where a significant part of it took place; or
- The court may treat it as happening only in the territory where the most important part occurred, depending on what the lawmakers intended.

Doctrine of Crown Immunity

Since laws are made by Parliament for the people, it is presumed they do not bind the Crown (i.e., the government) unless clearly stated. However, the government can choose to benefit from such laws. This is known as the doctrine of Crown immunity, which includes both the exemption and the optional benefit.

Parliamentary Privilege

Laws generally apply to Parliament like anywhere else in the country. However, unless a law clearly says otherwise, it will not apply in a way that interferes with parliamentary privileges. Since Parliament sits on Crown land, land-related laws apply to it in the same way they apply to government property.

Applicability of law to foreigners and their property

Laws generally assume that when a foreigner enters a country, they agree to follow its laws and may also benefit from them. However, laws are often silent on foreign-related matters unless there is a clear international connection. Merely being present in India does not mean that a foreigner's property or affairs abroad fall under Indian law. For Indian laws to apply to foreign matters, there must be a connection (nexus) to India. Courts also use private international law—for example, a person's movable property is governed by the law of their domicile. Some laws grant special privileges or impose restrictions on foreigners (aliens).

Artificial Persons (Corporate Bodies)

Companies or other artificial persons are considered to be located in the country where they are incorporated. But if they operate in another country, that country's law may also treat them as being present there.

Application of Laws on High Seas

Unless stated otherwise, laws apply on ships, aircraft, or other installations on the high seas (or in areas not under any country's control) in the following way:

- If the vessel or installation is under Indian law, the law applies as if it were inside Indian territory.
- Otherwise, Indian law applies to it as it would to foreign matters.

Commencement

Starting of operation of Act

"Commencement" refers to the time when an Act or provision comes into force. ^[2]

Laws often use expressions like "coming into force," "taking effect," or "coming into operation" to describe when they become effective. Section 5 of the General Clause Act 1897 [Coming into operation of enactments] deals with the commencement of a Central Act and may be referred for the rulings in this regard.

Delayed commencement of laws

An Act may delay its commencement for practical reasons such as:

- Giving time to disseminate and understand the law,
- Allowing government preparations,
- Awaiting ratification of treaties.

Such provisions are often governed by a commencement clause specifying a future date. [*Bennion, 2019, Sec. 5.3, p. 167]*

Commencement in stages

This may include different dates for different:

- Provisions,
- Purposes,
- Areas.

For example, Section 1(3) of the Central Goods and Services Tax (CGST) Act, 2017 states:

> "It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

[2] Bennion 2019 Sec 5.1 p 165

> Provided that different dates may be appointed for different provisions of this Act..."

These allow segmented enforcement, but in the absence of express power, implementing laws differently across areas may be ultra vires (beyond authority). [*Bennion, 2019, Sec. 5.4]*

Ministerial discretion and judicial review

There is no general legal obligation on a minister / government to issue a commencement notification. However, the minister must keep under review whether to activate the law. A policy to *never* enforce it could be challenged via judicial review. This was summarized by Lord Elwyn-Jones LC in the UK Parliament:

> "If the Act states that it shall come into force on a date to be fixed by order made by the Minister... it is within the discretion of the Minister... Parliament may bring pressure but cannot compel, short of another Act."

[*Bennion, 2019, Sec. 5.5, p. 171*]

No judicial pre-emption of commencement

Courts and public authorities must not **anticipate** the enforcement of a law before it is officially in force. They must apply law **only** from its valid commencement date. [*Bennion, 2019, Sec. 5.7*]

Coming into effect of Ordinances

Ordinances, issued in emergencies, take effect **immediately** upon promulgation. Indian draftsmen customarily include language such as "this Ordinance shall come into force at once."

Duration

Legislation may be classified as either:

- **Permanent**, staying in force until repealed; or
- **Temporary**, ending on a specific date or event, unless renewed or converted into a permanent law.

Permanent legislation – general presumption

When an Act does not contain a duration clause, it is legally presumed to be permanent. This means the Act remains in force indefinitely, unless it is explicitly repealed or expires through express statutory provisions. [*Bennion 2019, p. 178, Sec. 5.10*]

Nevertheless, even permanent laws can contain time-bound provisions, such as annual taxation laws passed using language like:

> "Income tax is charged for the year 2015–16".

This tax law is permanent in structure, but applies to income for a specific financial year. [*Bennion, 2019, p. 178, Sec. 5.10*]

Sunset Clauses and Expiry Mechanisms

When temporary, legislation typically contains a sunset clause—a provision stating when the law or its parts will expire. The expiration may be linked to:

- A fixed time period (e.g., "expires after 5 years"),
- A specific date,
- The occurrence of an event.

For example, the *Foreign Exchange Regulation Act, 1947* had an explicit duration clause:

> "It shall remain in force up to the 31st day of December 1957."

The expiry can apply to the whole Act or only to certain sections.

Purpose of Temporary Legislation: Temporary legislation is generally used for:

- Experimental or controversial policies,
- Emergency or time-limited measures,
- Situations where the law is expected to fulfil its purpose within a limited time.

Mechanisms for extending or making temporary laws permanent

Legislatures may also include a ministerial power to:

- Extend the duration,
- Make the Act permanent,
- Or renew the law periodically.

In India, when converting a temporary Act into a permanent one, the usual legislative method is to omit the duration clause through an amending Act.

Law does not expire through disuse (No Desuetude doctrine)

Once an Act is validly enacted and commenced, it continues to be legally in force until repealed or expired. It will not lapse merely because:

- It is not enforced,
- It is violated regularly,
- It is ignored for a long time.

Spent Laws and Revival in Practice: Although an Act may remain on the statute book, it may become spent—that is, practically obsolete—when the circumstances it was intended to regulate no longer exist. For example, a pension law for people born before a certain date may become meaningless once that generation passes away.

Still, even a long-disused Act may be revived and enforced, if relevant circumstances reappear or someone seeks to rely on it. As Bennion aptly notes:

> "An Act considered for centuries to be a dead letter may suddenly acquire a new lease of practical existence. It is there to be applied, if anyone is bold enough to do it."

[*Bennion, 2019, p. 180, Sec. 5.11*]

Retrospectivity

Definition and Basic Concept

The term *retrospective* originates from the Latin *retro* (meaning "backward") and *specere* (meaning "to look"). A law is said to have retrospective operation when it applies to acts, events, or transactions that occurred before its enactment. Commonly referred to as *ex post facto* law, it alters the legal consequences of past actions, often making a statute operative from a date earlier than its passing.

The term "prospective" refers to laws that operate from the present into the future, governing actions that occur after the law is enacted.

Presumption of prospectivity

The default legal presumption is that any newly enacted law operates prospectively, governing only future actions and events. A statute is not presumed to affect past transactions unless the legislature clearly expresses or necessarily implies an intention for it to have retrospective effect, typically by specifying a past effective date. This presumption is rooted in fairness—laws should not unsettle existing rights or impose new burdens retrospectively. Per *Maxwell on the Interpretation of Statutes*, 12th Ed., p. 215; *Bennion*, 2019, Sec. 5.12:

> "An enactment is presumed not to be intended to have a retrospective operation, unless the contrary intention appears."

Laws affecting substantive rights generally operate prospectively: Laws that affect substantive rights, such as property, contracts, or accrued legal remedies, are generally prospective. The courts have consistently held that retrospective application should not:

- Destroy vested rights,
- Reopen closed or completed transactions,
- Create new liabilities or duties without explicit statutory backing.

Per *Punjab Tin Supply Co. v. Central Government*, (1984) 1 SCC 206:

> "All laws which affect substantive rights generally operate prospectively… unless the legislative intent is clear and compulsive."

Varying strength of the presumption: The degree of judicial resistance to retrospective application depends on the extent of unfairness it may cause. For example, in penal statutes, the presumption against retrospectivity is particularly strong due to the principle against doubtful penalisation.

Exceptions - Procedural and Declaratory Laws: Exceptions to the general rule include:

- **Procedural laws**, which deal with enforcement mechanisms, are often given retrospective effect unless injustice results.
- **Declaratory laws**, which merely clarify the original intention of an existing law, are also considered retrospective.

These are treated as such because they do not create new rights or obligations but only affirm what was always meant.

Retrospective nature of procedural laws

It is a settled principle that procedural laws, such as those relating to limitation periods, are generally retrospective in effect, unless the statute expressly states otherwise. This is because procedural rules do not affect vested rights but merely govern the mode of enforcing them. This principle was affirmed in *CIT v. Sadhu Ram* (1981) 127 ITR 517 (P&H) and later upheld by the Supreme Court in *(2002) 124 Taxman 484 (SC)*.

Declaratory statutes are generally retrospective

Declaratory statutes are enacted to remove doubts or clarify the legal meaning of existing statutory provisions. According to *Craies on Statute Law*, the main purpose of a declaratory Act is to correct what Parliament views as a judicial error or misinterpretation, without necessarily creating new law. Instead, it declares what the law has always meant, reaffirming the legal position as originally intended.

Such statutes are generally treated as retrospective in operation, not because they alter past law, but because they confirm that the law has always been as now clarified. Their retrospective character arises from the notion that they are restating the true legal position, which may have been obscured or misapplied by earlier judicial decisions.

Functions of Declaratory Statutes: Declaratory Acts may serve different roles:

- Correcting errors in previous legislation,
- Explaining the meaning of ambiguous provisions in earlier statutes,
- Clarifying legislative intent when judicial interpretations have caused confusion or inconsistency.

In such cases, retrospective operation is often essential for the statute to achieve its purpose—particularly where it must correct settled doubts or reverse inconsistent rulings.

Thus, clarificatory or curative amendments, when clearly intended as declaratory, are presumed to be retrospective, unless expressly stated otherwise. However, courts look for clear legislative intent or necessary implication to justify such interpretation.

Clarificatory amendments aid in interpreting earlier ambiguous laws: Even when a clarificatory amendment is not expressly retrospective, it can still be relied upon by courts to interpret an earlier ambiguous provision. The Supreme Court in *Thiru Manickam & Co. v. State of Tamil Nadu* (AIR 1977 SC 518) held that a later clarification can be used to shed light on legislative intent behind the original language. Such clarificatory amendments do not change the law but help resolve existing uncertainty.

Clarificatory vs. Substantive Amendments - Judicial Test

The Supreme Court of India has clarified that merely calling an amendment "clarificatory" or stating it is "for removal of doubts" does not automatically make it retrospective. Courts must determine whether:

- The amendment clarifies existing law (and thus is retrospective), or
- Introduces new principles (and is therefore prospective).

Per *Union of India v. Martin Lottery Agencies Ltd.*, (2009) 12 SCC 209

> "Whether a change is clarificatory or substantive is a matter of statutory interpretation, not legislative declaration."

Presumption of prospectivity extends to delegated legislation

While Parliament has the constitutional authority to enact retrospective laws, the question arises whether executive authorities exercising delegated legislative powers—such as making rules, regulations, or notifications—can also frame laws with retrospective effect.

Delegated legislation includes various instruments like rules, bye-laws, orders, and directions made by a subordinate authority empowered by the parent statute. Although the legislature cannot delegate its core law-making function, it can delegate conditional or auxiliary powers to implement or operationalize the law.

In *ITO v. Excel Productions* [(1970) 75 ITR 174 (SC)], the Court held that retrospective effect in delegated legislation is not permissible unless the enabling statute expressly provides or necessarily implies such power. If the parent Act is silent, the delegated authority cannot unilaterally give retrospective effect to its rules or notifications.

Again, in *CIT v. Taj Mahal Hotel* [(1971) 82 ITR 44 (SC)] clarified that rules made under delegated powers are intended only to carry out the provisions of the Act, and cannot override or diminish the substantive rights conferred by the statute.

Thus, whether delegated legislation can be retrospective depends entirely on the language of the parent statute. If no express or implied authorization exists, retrospective rules will be invalid.

Retrospective Amendments in Taxation Laws

In the context of statutes like the Income-tax Act, legislative amendments may be:

1. **Prospective** – taking effect from a stated future date,
2. **Retrospective** – effective from a prior date,
3. **Clarificatory** – typically considered retrospective if they explain or affirm existing provisions.

While Parliament has the power to legislate retrospectively, it cannot reverse judicial decisions directly. However, it may remove the legal foundation of such judgments by validly amending the statute within its legislative competence.

Clarificatory amendments to resolve judicial divergence are retrospective: In *CIT v. Podar Cement (P) Ltd.* [1997] 92 Taxman 541 / 226 ITR 625 (SC), the Court laid down that when an amendment is enacted to resolve a divergence of opinion among High Courts, it is generally declaratory and clarificatory, and therefore retrospective in operation. Such amendments aim to confirm the correct legal position rather than create new law.

Similarly, in *Brij Mohan Das Laxman Das v. CIT* AIR 1997 SC 1651, the Supreme Court held that if contrary views exist among

High Courts and there is no decision of the Supreme Court on the issue, then an Explanation inserted by Parliament to settle the legal controversy is to be treated as clarificatory and hence retrospective in effect.

Clarificatory explanations are retrospective, substantive ones prospective: The Supreme Court in *K. Govindan and Sons v. CIT* [2001] 114 Taxman 94 / 247 ITR 192 (SC) explained that whether an Explanation in a statute applies retrospectively or prospectively depends on its nature—if it is clarificatory, it is deemed retrospective, but if it introduces a substantive change, it is prospective.

Constitutional safeguard against retrospective criminal laws

Article 20(1) of the Indian Constitution strictly prohibits retrospective criminal legislation. It states that no person can be convicted for an act that was not an offence at the time it was committed, and no heavier penalty can be imposed than the one applicable at the time of the offence. This ensures legal certainty in criminal matters.

In *Kedar Nath Singh v. State of Bihar* (AIR 1962 SC 955), the Supreme Court affirmed that criminal laws, including penalties, must operate prospectively. The doctrine of ex post facto laws applies only to criminal matters, as reaffirmed in *Rattan Lal v. State of Punjab* (AIR 1965 SC 444). However, the Court allowed one exception: if a law reduces punishment, it may apply retrospectively as it benefits the accused.

However, this constitutional safeguard does not extend to civil laws. Therefore, the imposition of civil liabilities with retrospective effect is legally permissible in India, unless barred by other statutory or equitable principles.

Retrospective taxation only in exceptional cases

The **Parthasarathi Shome Committee**, set up to review the application of retrospective amendments in tax law, recommended that such laws be used only in rare and justified situations, namely:

- To correct clear statutory mistakes or anomalies,
- To remove procedural or technical defects that undermine substantive provisions,
- To combat highly abusive tax avoidance schemes lacking economic substance.

The Committee strongly opposed using retrospective laws to expand the tax base, stating that it undermines trust and investor confidence.

The **Damodaran Committee** echoed similar concerns, famously stating:

> "It can be said in favour of death that it is never retrospective."

The committee criticized retrospective taxation for creating uncertainty in the investment climate and acting as a disincentive to doing business in India. It stressed that while legal powers permit retrospective taxation, such use often violates the principles of certainty and continuity essential for a stable economic environment.

Global tax norms and principles of fair taxation: There is now a growing consensus among jurists and economists that fair tax systems must adhere to principles such as:

- Equity and fairness
- Certainty and predictability
- Economic efficiency

- Transparency and simplicity

Retrospective amendments that alter fundamental tax principles violate these norms. Taxpayers are entitled to structure their affairs and investments based on the legal framework existing at the time. Altering the law later is seen as unfair and destabilizing.

The **American Institute of Certified Public Accountants** (AICPA), in its 2001 report, emphasized "certainty" as a core tenet of sound tax policy, noting that it promotes compliance and respect for the system. By this standard, retrospective amendments are inconsistent with good governance and tax administration.

Key differences between prospective and retrospective laws

Aspect	Prospective Operation	Retrospective Operation
1. Scope	Applies to future actions or offences.	Applies to past events, treating them under new legal standards.
2. Presumption	Laws are presumed to be prospective unless expressly stated otherwise.	No statute is presumed to be retrospective; requires clear legislative intent.
3. Effective Date	Applies from the date of enforcement or any future date mentioned in the law.	Applies from a past date, which must be clearly specified.
4. Legal Areas	Can apply to both civil and criminal laws.	Typically permitted only in civil matters. Retrospective criminal laws are prohibited under Article 20(1) of the Indian Constitution.
5. Public Acceptance	Widely accepted for ensuring clarity, fairness, and legal certainty.	Often criticized for being unfair and violating individual rights when people are punished for actions that were not illegal when committed.
6. Global Practice	Preferred globally as it upholds democratic principles and ensures predictability.	Many countries discourage or restrict retrospective laws, especially in criminal matters. In India, Article 20(1) forbids retrospective criminal legislation that adversely affects rights.

Distinction between Retroactive and Retrospective Law

Retroactive laws are those that act backward, affecting events or transactions that occurred before the law was introduced. In legislative terms, the word "retroactive" is often used interchangeably with "retrospective," although subtle distinctions exist. Retroactivity refers to the application of new legal rules to past events. It includes two key types:

- **True Retroactivity**: This occurs when a new legal rule is applied to a fully completed act or transaction that took place before the rule was enacted. It directly alters legal consequences of actions that are already concluded.
- **Quasi-Retroactivity**: This arises when a new rule is applied to an ongoing or incomplete transaction. Here, although the act began before the law was changed, its legal consequences are affected by the new law while the matter is still pending.

The core of this distinction lies in whether the transaction was completed or pending at the time the new law was enacted.

Retrospective, though often used synonymously with retroactive, is a broader and more ambiguous term. It typically refers to a law that, while not altering the past directly, impacts the legal character or consequences of past acts, even if it applies only in the future. Courts generally treat a statute as retrospective if it:

- Modifies legal consequences of past events, transactions, or conduct.
- Applies to existing facts or rights in a way that changes their effect moving forward.

However, not all laws affecting existing rights are considered retrospective. A statute is not retrospective merely because:

- It deals with existing rights,
- Or it uses past events as a basis for its application.

As explained in *Halsbury's Laws of England* (Vol. 44, 4th Ed., para 921), the determination depends on whether the law changes the legal nature or effects of prior conduct or facts.

Judicial precedents

Power to Make Retrospective Laws: The Union Parliament and State Legislatures have plenary powers of legislation within the field assigned to them and subject to certain constitutional and judicially recognised restrictions^[3] can legislate prospectively as well as retrospectively.^[4]

Present competence to legislate: Competence to make a law for a past period on a subject depends upon present competence to legislate on that subject.^[5]

Limited period of retrospectivity: By retrospective legislation, the Legislature may make a law which is operative for a limited period prior to the date of its coming into force and is not operative either on that date or in future.^[6]

Restoration of law retrospectively: The power to make retrospective legislation enables the Legislature to obliterate an

[3] State of Gujarat v Raman Lal Keshav Lal Soni, AIR 1984 SC 161 cited in Singh 2021 p 408

[4] United Provinces v Atiqa Begum (Mt), AIR 1941 FC 16 cited in Singh 2021 p 408

[5] A Hajee Abdul Shukoor & Co v State of Madras, AIR 1964 SC 1729 cited in Singh 2021 p 408

[6] District Mining Officer v Tata Iron & Steel Co, (2001) 7 SCC 358 cited in Singh 2021 p 408

amending Act completely and restore the law as it existed before the amending Act.^[7]

Validating Act: This power has also been often used for validating prior executive and legislative acts by retrospectively curing the defect which led to their invalidity and thus even making ineffective judgments of competent courts declaring the invalidity. It is not necessary that the invalidity must be cured by the same Legislature which had passed the earlier invalid Act. Thus, if a state Legislature passes an Act on a subject which falls outside its competence and within the competence of Parliament and is for that reason held invalid, Parliament can by passing a retrospective Act which incorporates the State Act cure the invalidity.^[8]

Implication: It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective operation.^[9]

***Nova constitution futuris forman imponere debet non praeteritis*:** There is a presumption of prospectivity articulated in the legal maxim "*nova constitution futuris forman imponere debet non praeteritis*" (a new law ought to regulate what is to follow, not the past), and this presumption operates unless shown to the contrary by express provision in the statute or is otherwise discernible by necessary implication.^[10]

Existing rights: But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligation. Unless there are words

[7] State of Tamil Nadu v Arooran Sugars Ltd, (1997) 1 SCC 326 cited in Singh 2021 p 408

[8] P Kannadasan v State of Tamil Nadu, (1996) 5 SCC 670 cited in Singh 2021 p 408

[9] Keshvan v State of Bombay, AIR 1951 SC 128 cited in Singh 2021 p 408

[10] Monnet Ispat & Energy Ltd v UOI, (2012) 11 SCC 1 cited in Singh 2021 p 409

in the statute sufficient to show the intention of the Legislature to affect existing rights, it is deemed to be prospective only.^[11] Said as follows:

> "Provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment".^[12]

Vested rights: It is presumed that any statute affecting vested rights must be prospective. Said as follows:

> "Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation or imposes a new duty, or attaches a new disability in respect of transactions already past, must be presumed to be intended not to have a retrospective effect".^[13]

Property rights: If rights created in favour of any person, whether they are property rights or rights arising from a transaction in the nature of a contract or rights protected under a statute, are to be taken away by any legislation, then that legislation will have to say so specifically by giving its provisions a retrospective effect. This principle was applied by the Supreme Court to protect a "deemed tenant" under section 15A of the Bombay Rent Act, 1947, from eviction as an "unauthorized occupant" under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The Supreme Court held that a "deemed tenant" under the 1947 Act continued to be protected under its succeeding Act, being the Maharashtra Rent Control Act, 1999, in view of the definition of "tenant" under section 7(15)(a)(ii) thereof, and he therefore cannot be said to be

[11] Doolubdas Pettamberdass v Ramloll Thackoorseydass, (1850) 5 MIA 109 cited in Singh 2021 p 409

[12] Delhi Cloth Mills & General Co Ltd v CIT, Delhi, AIR 1927 PC 242 cited in Singh 2021 p 409

[13] Re, Pulborough Parish School Board Election, Bourke v Nutt, (1894) 1 QB 725 cited in Singh 2021 p 409

in "unauthorized occupation" of the premises. His right as a "deemed tenant" cannot be destroyed giving retrospective effect to the provisions of the Public Premises Act since there is neither such express provision therein, nor is it warranted by any implication.^[14]

Scope of retrospectivity: As a logical corollary of the general rule, that retrospective operation is not taken to be intended unless that intention is manifested by express words or necessary implication, there is a subordinate rule to the effect a statute or a section in it is not to be construed so as to have larger retrospective operation than its language renders necessary.^[15] In other words, close attention must be paid to the language of the statutory provision for determining the scope of the retrospectivity intended by Parliament.^[16]

Absurdity and anomaly: But if the literal reading of the provision giving retrospectivity produces absurdities and anomalies, a case not prima facie within the words may be taken to be covered, if the purpose of the provision indicates that the intention was to cover it.^[17]

***Secundum materium*:** The inhibition against retrospective construction is not a rigid rule and must vary *secundum materium* (according to the subject matter).^[18]

[14] Suhas H Pophale v Oriental Insurance Co Ltd, (2014) 4 SCC 657 cited in Singh 2021 p 410

[15] Reid v Reid, (1886) 31 Ch D 402 cited in Singh 2021 p 410

[16] UOI v Raghubir Singh, (1989) 2 SCC 754 cited in Singh 2021 p 410

[17] UOI v Filip Tiago De Gama of vedem vasco De Gama, (1990) 1 SCC 277 cited in Singh 2021 p 410

[18] Barber v Pigden, (1937) 1 All ER 126 cited in Singh 2021 p 410

Fairness: It has been said that "the basis of the rule is no more than simple fairness which ought to be the basis of every legal rule".^[19]

Remedial provision: It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil for the benefit of the community as a whole.^[20]

Legal fiction: Instead of express words the device of legal fiction may also be used to bring about retrospective operation by implication.^[21]

Partly antecedent: The rule against retrospective construction is not applicable to a statute merely "because a part of the requisites for its action is drawn from a time antecedent to its passing".^[22]

Pre-amended Act: If that were not so, every statute will be presumed to apply only to persons born and things come into existence after its operation and the rule may well result in virtual nullification of most of the statutes. An amending Act is, therefore, not retrospective merely because it applies also to those to whom pre-amended Act was applicable if the amended Act has operation from the date of its amendment and not from an anterior date.^[23]

[19] L' Office Cherifien des Phosphates v Yamashits-Shinnihon Steamship Co Ltd, (1994) 1 All ER 20 cited in Singh 2021 p 410

[20] Mithilesh Kumari v Prem Bihari Khare, (1989) 2 SCC 95 cited in Singh 2021 p 410

[21] Mohd Akram Ansari v Chief Election Officer, (2008) 2 SCC 95 cited in Singh 2021 p 410

[22] R v St Mary White Chapels (Inhabitants), (1848) 12QB 120 cited in Singh 2021 p 410

[23] Bishun Narain Misra v State of Uttar Pradesh, AIR 1965 SC 1567 cited in Singh 2021 p 411

Past transactions: But this does not mean that a statute which taken away or impairs any vested right acquired under existing laws or which creates a new obligation or imposes a new burden in respect of past transactions will not be treated as retrospective.^[24]

Retrospective amendments: Thus, to apply an amending Act, which creates a new obligation to pay additional compensation, or which reduces the rate of compensation^[25], to pending proceeding for determination of compensation for acquisition already made, will be to construe it retrospectively which cannot be done unless such a construction follows from express words or necessary implication. Similarly, a new law enhancing compensation payable in respect of an accident arising out of use of motor vehicle will not be applicable to accidents taking place before its enforcement and pending proceedings for assessment of compensation will not be affected by such a law unless by express words or necessary implication the new law is retrospective.^[26] It makes no difference in application of these principles that the amendment is by substitution or otherwise.

Events prior to enactment: Another principle flowing from presumption against retrospectivity is that "one does not expect rights conferred by the statute to be destroyed by events which took place before it was passed".^[27]

Saves vested rights and not existing rights: In certain cases, a distinction is drawn between an existing right and a vested right and it is said that the rule against retrospective construction is

[24] KS Paripoornan v State of Kerala, AIR 1995 SC 1012 cited in Singh 2021 p 411

[25] Maharaja Chintamani Saran Nath Shahdeo v State of Bihar, (1999) 8 SCC 16 cited in Singh 2021 p 411

[26] Padma Srinivasan v Premier Insurance Co Ltd, AIR 1982 SC 836 cited in Singh 2021 p 411

[27] Birmingham City Council v Walker, (2007) 3 All ER 445 cited in Singh 2021 p 411

applied only to save vested rights and not existing rights.^[28] This distinction, however, has not been maintained in other cases.^[29]

Confusion in usage: The word "retrospective" has thus been used in different senses causing a certain amount of confusion.^[30] The real issue in each case is to the scope of particular enactment having regard to its language and the object discernible from the statute read as a whole.^[31]

Surrounding circumstances: If the language is not clear then the Court has to decide whether in the light of the surrounding circumstances retrospective effect should be given to it or not.^[32]

Retrospectivity wrt procedural statutes

In contrast to statutes dealing with substantive rights, statutes dealing with merely matters of procedure are presumed to be retrospective unless such a construction is textually inadmissible.^[33] Said as follows:

> "The rule that an Act of Parliament is not to be given retrospective effect applies only to statutes which affect vested rights. It does not apply to statutes which only alter the form of procedure or the admissibility of evidence, or the effect which the courts give to evidence."^[34]

[28] West v Gwynne, (1911) 2 Ch 1 cited in Singh 2021 p 411

[29] Duke of Devonshire v Barrow Haematite Steel Co Ltd, (1877) 2 QBD 286 cited in Singh 2021 p 411

[30] Gardner & Co v Cone, (1928) All ER Rep 458 cited in Singh 2021 p 411

[31] Singh 2021 p 412

[32] Punjab Tin Supply Co. v Central Government (1984) 1 SCC 206

[33] Gardner v Lucas, (1878) 3 AC 582 cited in Singh 2021 p 412

[34] Blyth v Blyth, (1966) 1 All ER 524 cited in Singh 2021 p 412

Pending actions: If the new Act affects matters of procedure only, then, prima facie, "it applies to all actions pending as well as future".^[35]

Proceeding as per altered mode: In stating the principle that "a change in the law of procedure operates retrospectively and unlike the law relating to vested right is not only prospective", the Supreme Court has quoted with approval the reason of the rule as expressed in Maxwell.^[36]

> "No person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner prescribed for the time being by or for the court in which the case is pending, and if, by an Act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode."

Court's jurisdiction: Relying upon this principle it has been held that "if a court has jurisdiction to try the suit, when it comes for disposal, it cannot refuse to assume jurisdiction by reason of the fact that it had no jurisdiction to entertain it at the time when it was instituted".^[37]

Laws of limitation: It has been said that law relating to forum and limitation is procedural in nature whereas law relating to right of action and right of appeal even though remedial is substantive in nature; that a procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished; that a statute which not only changes the procedure but also creates new rights and obligations shall be shall be construed to be

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[35] AG v Ernazza, (1960) 3 All ER 97 cited in Singh 2021 p 412

[36] Anant Gopal Sheorey v State of Bombay, AIR 1958 SC 915 cited in Singh 2021 p 412

[37] Sudhir G Angur v Sanjeev (2006) 1 SCC 141 cited in Singh 2021 p 412

prospective, unless otherwise provided either expressly or by necessary implication.^[38]

Change in court's jurisdiction: A change of forum except in pending proceedings is a matter of procedure and, therefore, if a new Act requires certain types of original proceeding to be instituted before a special tribunal constituted under the Act to the exclusion of civil courts, all proceedings of that type whether based on old or new causes of action will have to be instituted before the tribunal.^[39]

Execution of decree: The non-executability of a decree passed by an Indian court against a foreigner at a place in foreign country is also a matter of procedure and the decree becomes executable if the place where it is being executed ceases to be a foreign country and becomes part of India and the Indian Code of Civil Procedure, 1908 (CPC, 1908) is extended to that place.^[40]

Arbitration award: On the same principle it was held that an arbitration award made in a foreign State is enforceable in the United Kingdom as a convention award under section 3 of the Arbitration Act, 1975 if the foreign State is a party to the New York Convention when proceedings for enforcing the award are taken although it was not such a party at the time of making of the award.^[41]

Enforcement of award: It was pointed out that in so construing the section it was not given a retrospective operation as it merely

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[38] Hitendra Vishnu Thakur v State of Maharashtra, AIR 1994 SC 2623 cited in Singh 2021 p 412

[39] New India Insurance Co Ltd v Shanti Misra (Smt), (1975) 2 SCC 840 cited in Singh 2021 p 413

[40] B Narhari Shivram Shet Narvekar v Pannalal Umediram AIR (1979) 3 SCC 203 cited in Singh 2021 p 413

[41] Kuwait Minister of Public v Sir Frederick Snow & Partner, (1984) 1 All ER 733 cited in Singh 2021 p 413

affected the form of procedure of enforcement in that an award which, at the time it was made, was enforceable by action at common law became enforceable under the Act on the foreign State becoming a party to the convention subsequent to the date of the award. Section 45B the Employees' State Insurance Act, 1948, which enables the Employees' State Insurance Corporation to recover arrears of contribution from the employers as arrears of land revenue, has been held to be procedural and applicable to arrears falling due before coming into force of the section on 28 January 1968.^[42]

Past cause of action: The reason is that statutes providing for new remedies for enforcement of an existing right are treated as procedural and apply to future as well past causes of action.^[43]

Retrospectivity wrt fiscal statutes

Fiscal legislation imposing liability is generally governed by the normal presumption that it is not retrospective and it is a cardinal principle of the tax law that the law to be applied is that in force in the assessment year unless otherwise provided expressly or by necessary implication.^[44]

Charging and machinery provisions: The above rule applies to the charging section and other substantive provisions such as a provision imposing penalty^[45] and does not apply to machinery

[42] Employees' State Insurance Corp v Dwakar Nath Bhargawa, (1997) 7 SCC 131 cited in Singh 2021 p 413

[43] Dilip v Mohd Azizul Haq, (2000) 3 SCC 607 cited in Singh 2021 p 413

[44] Reliance Jute and Industries Ltd v CIT (1980) 1 SCC 139 cited in Singh 2021 p 422

[45] Collector of Central Excise Ahmedabad v Orient Fabrics Pvt Ltd, (2003) 3SCC 636 cited in Singh 2021 p 422

or procedural provisions of a taxing Act which are generally retrospective and apply even to pending proceedings.^[46]

Finality of assessment: But a procedural provision, as far as possible, will not be so construed as to affect finality of tax assessment or to open up liability which had become barred.^[47]

Reassessment: Assessment creates a vested right and an assessee cannot be subject to reassessment unless a provision to that effect inserted by amendment is either expressly or by necessary implication retrospective.^[48]

Opening the liability: A provision which in terms is retrospective and has the effect of opening up liability which had become barred by lapse of time, will be subject to the rule of strict construction.^[49]

Scope: In the absence of a clear implication such a legislation will not be given a greater retrospectivity than is expressly mentioned; nor will it be construed to authorise the Income-tax Authorities to commence proceedings which, before the new Act came into force, had by the expiry of the period then provided become barred.^[50]

Unambiguous language: But unambiguous language must be given effect to, even if it results in reopening of assessments

[46] Commr of Wealth Tax, Meerut v Sharvan Kumar Swarup (1994) 6 SCC 623 cited in Singh 2021 p 422

[47] Income-tax Officer v SK Habibullah, AIR 1962 SC 918 cited in Singh 2021 p 422

[48] Controller of Estate Duty Gujarat-I v MA Merchant, AIR 1989 SC 1710 cited in Singh 2021 p 422

[49] Banarsi Debi v ITO, District IV, Calcutta, AIR 1964 SC 1742 cited in Singh 2021 p 422

[50] SS Gadgil v Lal & Co, AIR 1965 SC 171 cited in Singh 2021 p 422

which had become final after expiry of the period earlier provided for reopening them.^[51]

No fixed formula: There is no fixed formula for the expression of legislative intent to give retrospectivity to a taxation enactment.^[52]

Arbitrary and irrational: Though the Legislature has enormous power to make retrospective taxing laws, yet when a retrospective Act is entirely arbitrary and irrational it may be declared invalid as offending Article 14 of the Constitution.^[53]

Oppressive and confiscatory: But the retrospective operation would have to be found to be unduly oppressive and confiscatory before it can be held to be so unreasonable as to violate constitutional norms of Articles 14 and 19 of the Constitution.^[54]

Liability of HUF and partition: On the principle that a new Act affecting, existing rights or creating obligations, is presumed to be prospective only, section 171 (6) of the Income-tax Act, 1961 has been held not to be applicable to assessment made on a Hindu undivided family for any assessment year prior to 1st April, 1962, when the Act came into force. Section 171 (6) creates joint and several liability of the members to pay the tax assessed on a Hindu undivided family if the Income-tax Officer, after completion of the assessment, finds that the family has already effected a partition whether total or partial. It was pointed out that as the liability created by section 171 (6) was not limited to the extent of the joint family properties coming to the hands of

[51] Commercial Tax Officer v Biswanath Jhunjhunwala, AIR 1997 SC 357 cited in Singh 2021 p 423

[52] National Agricultural Co-op Marketing Federation, of India Ltd v UOI, (2003) 5 SCC 23 cited in Singh 2021 p 423

[53] Tata Motors Ltd v State of Maharashtra, (2004) 5 SCC 783 cited in Singh 2021 p 423

[54] RC Tobacco (Pvt) Ltd v UOI, (2005) 7 SCC 725 cited in Singh 2021 p 423

a member and made him personally liable, it was a new liability and the section could not be construed to apply to assessments completed under the old Act.^[55]

Law in force at the beginning of the assessment year: The liability to pay income-tax is a perfected debt on the last day of the previous year^[56] but as that liability is computed according to the law in force at the beginning of the assessment year, i.e., the first day of April, any change in law affecting tax liability after that date though made during the currency of the assessment year, unless specifically made retrospective, does not apply to the assessment for that year.^[57]

Imposition of surcharge: On the same principle when a surcharge on Agricultural Income-tax was enforced from 1 September 1957; it was held that it could not apply to the assessment year 1957-58 as it was not brought into force from the beginning of that year, i.e., 1 April 1957.^[58]

Revision of tariff: Similarly, revision of Schedule to the Kerala Plantation Tax Act, 1960 by the Kerala Finance Act, 1987 w.e.f. 1-7-1987 which revised the tariff categories as well as the tariff structure was held to be applicable only in the next financial year, viz. 1988-89 and not the financial year 1987-88.^[59]

Continuing event: A taxing Act cannot, however, be called retrospective if it taxes an event which is continuing and not complete when the Act comes into force. So, instalments of hire

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[55] Govinddas v Income-tax Officer, (1976) 1 SCC 906 cited in Singh 2021 p 423

[56] Kesoram Industries & Cotton Mills Ltd v CWT (Central), Calcutta, AIR 1966 SC 1370 cited in Singh 2021 p 423

[57] CIT, Bombay v Scindia Steam Navigation Co Ltd, AIR 1961 SC 1933 cited in Singh 2021 p 423

[58] Karimtharuvi Tea Estates Ltd v State of Kerala, AIR 1966 SC 1385 cited in Singh 2021 p 423

[59] State of Kerala v Alex George, (2005) 1 SCC 299 cited in Singh 2021 p 423

paid after the coming into force of the Finance Act, 1972 under a hire-purchase agreement made before the Act were subject to the value added tax it was held that the tax was not retrospective.^[60]

Continuing default: A default, which is a continuing default and not a default once for all, can be dealt with under the provisions of the new Act, if it continues when the new Act comes into force, although it commenced when the old Act was in force. A default in filing a return of income is a continuing default till the return is filed; such a default, though it commenced when the Income-tax Act, 1922 was in force, can yet be dealt with under the provisions of the Income-tax Act, 1961 if it continued after the commencement of the Act.^[61]

Amendment

Nature of Amendment

An *amendment* refers to any change—direct or indirect—that alters the legal meaning or effect of an Act. Most legislative changes occur in the form of amendments to existing statutes. Legally, an Act can be amended by:

- another Act of Parliament,
- subordinate (delegated) legislation authorized by a parent statute, or
- devolved legislation made by a subordinate legislature.

In some cases, the parent Act may itself provide that certain instruments or procedures can indirectly modify the interpretation or application of its provisions or of future laws. [*Bennion 2019, p. 193*]

[60] Customs and Excise v Thorn Electrical Industries Ltd, (1975) 1 All ER 439 cited in Singh 2021 p 423

[61] Maya Rani Punj v CIT, Delhi, (1986) 1 SCC 445 cited in Singh 2021 p 424

Types of Amendments

Textual amendments involve the direct addition, substitution, or deletion of words in the statutory text and allow a consolidated version of the law to be created.

Non-textual amendments change the meaning of the law without modifying the actual words of the statute.

Implied amendments occur when two Acts are inconsistent; the later Act is interpreted to modify the earlier one to the extent of the inconsistency.

Textual Amendment

A *textual amendment* involves the addition, removal, or replacement of words in a statute in a manner that allows the statute to be read as a single, updated legal text. The goal of such amendments is to ensure the amended Act, when published, forms a coherent and consolidated version, enabling users to access the law in a single place. This form of amendment is now the standard approach in the United Kingdom. [*Bennion, 2019, p. 195*]

Methods and terminology: When an amendment specifies that it runs "from" or "to" particular words, those specified words themselves are excluded from the final version of the statute. Commonly used terms in textual amendments include “insert,” “omit,” and “substitute.” Though older statutes used phrases like “There shall be inserted,” modern practice avoids assigning significance to the choice of wording.

Illustration: If an amendment states that the words “from ‘moon’ to ‘body’” are to be omitted, it removes the words *moon*, *body*, and everything in between. Likewise, an amendment to omit “sections 2 to 4” results in the removal of sections 2, 3, and 4 entirely.

Equivalence with repeal and substitution: Textual amendments often overlap with the concept of repeal. For instance, an amendment that omits a portion of text may also be described as repealing that part. Similarly, a substitution is functionally the same as a repeal followed by an insertion. Thus, distinctions between these terms are more stylistic than substantive.

Practical Concern: While textual amendments create a streamlined final version of the Act, they may cause confusion when read in isolation, before being formally integrated into the principal legislation.

Interpretive principle: When referring to a statute, courts generally interpret it as including all amendments made up to that date.

Non-Textual Amendment

A *non-textual amendment* is one that expressly changes the legal meaning of a statute without altering its actual wording. Rather than directly inserting or removing words, it modifies how the text is to be interpreted or applied. This technique is typically used in cases that are temporary, clarificatory, exceptional, or not of general interest—thereby avoiding unnecessary complexity in the main statutory text. [*Bennion, 2019, p. 196*]

Phrasing and Examples: Such amendments often employ language like “has effect as if,” “is to be treated as if,” or “is to be read as if,” thereby instructing readers to apply the law in a certain manner without changing the original words. For example, a provision may state that a section “has effect as if” a particular phrase were added or omitted, without actually editing the text itself.

Historical and Current Use: Historically, non-textual amendments were the standard method of statutory amendment in the UK. These were usually drafted in a narrative style that explained the nature of the change. Over time, textual amendments have become preferred due to their clarity and ease of consolidation.

Interpretive Challenges: One drawback of non-textual amendments is the need to mentally or physically merge multiple texts to determine the current legal position. This complexity can hinder comprehension, especially when several overlapping amendments exist.

Terminology and Classification: Non-textual amendments are also referred to as *referential amendments*, *non-textual modifications*, or *glosses*. However, terms like "modification" can be ambiguous, as they may also include textual amendments in some contexts.

Blurred Distinctions: In certain statutes—especially older ones—it may be difficult to differentiate between textual and non-textual amendments. For instance, an Act might state that a provision applies "with the following modifications," and then list changes in a textual form (e.g., "for 'X' substitute 'Y'"), thus blending the techniques.

Implied Amendment

When a later Act of Parliament is inconsistent with an earlier one, the later Act is presumed to amend the earlier to the extent necessary to eliminate the inconsistency. This principle arises from the doctrine of *Parliamentary sovereignty*, which holds that

Parliament cannot bind its successors. As such, any subsequent enactment that conflicts with an earlier provision is taken to override or impliedly repeal it, even if no express amendment is stated. [*Bennion, 2019, p. 197, Sec 6.4*]

Implied Repeal and Legislative Intent: If the two enactments are so contradictory that they cannot operate concurrently, the later Act impliedly repeals the earlier one. This outcome reflects the understanding that Parliament, by enacting a new and incompatible provision, must have intended to supersede the previous law.

Statutory Exposition: Sometimes, a later Act is framed on the basis of a particular interpretation of an earlier statute. This is known as *statutory exposition*. Its legal impact depends on the intent behind it:

- If the later Act seeks to clarify the earlier one's meaning, it may be considered a *declaratory enactment* and treated as having impliedly amended the earlier law.
- If it merely references the earlier Act without seeking to alter or clarify it, the exposition holds only persuasive value and does not amount to an amendment.

Thus, the presence of implied amendment or repeal is contingent upon the degree of conflict and the legislative intention expressed or inferred in the later enactment.

Consequential Amendments and their Interpretation

An *Act of Parliament* may include amendments to other Acts as a consequence of the substantive provisions it introduces. These are known as consequential amendments, or simply "consequentials." Their purpose is to adjust the legal framework to maintain consistency and coherence following changes introduced by the principal Act. [*Bennion, 2019, p. 198, Sec 6.5*]

Purpose and Drafting Practice: Because the aim of most Acts is to change the law, their operative provisions often necessitate changes to existing legislation. These consequential amendments may:

- Be included directly in the main Act itself, or
- Be left for delegated legislation to address later—especially when drafting time is limited or the full scope of required changes is uncertain.

Many Acts contain a *"mop-up" power*, allowing the government to make additional consequential amendments by delegated legislation if some are overlooked during passage of the Bill.

Textual vs. Non-Textual Form: In modern legislative drafting, consequential amendments are typically made through express textual amendments, ensuring clarity and coherence. Earlier legislative practices, before the advent of computerized tools, more commonly used non-textual amendments, and occasionally both methods may be used in tandem.

Interpretive Significance: The distinction between consequential and substantive amendments is not always sharply drawn, and labels are often legally insignificant. However, if it appears that Parliament intended only to make consequential changes—and not to introduce any fundamental alteration to the legal framework—this intention affects how courts interpret the amendment. A change labeled as "consequential" is presumed not to modify substantive law beyond what is necessary to align it with the new legal scheme.

Implied Consequentials: Where a legislative change has implications in other areas of the law and those implications are not expressly addressed, courts may imply consequential amendments. This often occurs when the drafters have overlooked or underestimated the legal ripple effects. It is presumed that Parliament did not intend to cause fundamental legal changes *indirectly* or *by a side wind* through amendments to unrelated Acts.

Thus, consequential amendments ensure the legal system remains integrated and logically consistent as new legislation is introduced.

Amendment of Acts through Delegated Legislation

An *Act of Parliament* may expressly confer the power to amend itself—or another Act—through delegated legislation. When such a power is validly exercised within its legal bounds (*intra vires*), the resulting amendment has the **same legal force** as if it had been made by the legislature directly. [*Bennion 2019, p. 200, Sec 6.6*]

Historical and Constitutional Perspective: This practice of authorizing amendments via delegated legislation began in the latter half of the 19th century and has since become a common legislative tool. Despite its practical utility, some constitutional concerns persist, as it is sometimes viewed as undermining the principle of Parliamentary supremacy. However, it is generally accepted—particularly in technical or narrowly defined contexts—when accompanied by safeguards such as procedural scrutiny or affirmative parliamentary approval.

Scope and Application: Though typically confined to minor, technical, or consequential provisions, the power to amend Acts through delegated legislation is not strictly limited to such cases. In some instances, broader amendment powers are granted, allowing substantive changes to primary legislation, provided parliamentary oversight mechanisms are in place to ensure accountability.

In summary, while such powers must be clearly and narrowly defined in the enabling Act, delegated amendments to statutes are legally valid and enforceable if properly authorized and procedurally followed.

Parliamentary practice on amendments

An Act may be amended during the same session in which it is passed, departing from the pre-1850 rule which presumed royal assent at the beginning of the session.

Unusually, a later section of an Act can amend an earlier part of the same Act, or even a different Act passed in the same session—especially when the timing of enactment affects applicability.

There is also no legal barrier to an Act amending itself, although this technique is rarely used and often arises due to commencement contingencies.

Construction of Statutes after textual amendment

When Parliament makes textual amendments to an existing Act, the legislative intent is generally to produce a revised version of the law that can be construed as a coherent whole going forward. The amended Act is treated, for interpretive purposes, as if it were a self-contained enactment. This facilitates clarity and legal certainty in applying the statute post-amendment. [*Bennion 2019, p. 201, Sec 6.7*]

Role of the original wording: Although the Act is construed as amended, the original, unaltered wording may still be consulted to interpret the parts that remain unchanged. Courts may look at the pre-amendment version to better understand the context of the retained provisions, especially when ambiguities arise.

Effect on Repealed or Substituted Provisions: Where provisions are repealed or substituted, they are generally treated as if they had never existed, for purposes of applying the amended law going forward—unless there is an express contrary intention, such as for transitional or saving provisions.

Relationship Between Amending and Amended Acts: The amending Act serves primarily to alter the language of the earlier Act, and, unless otherwise stated, its other provisions do not directly influence the construction of the amended text. However, in certain cases, courts may refer to the amending statute to discern legislative intent, particularly when the wording or effect of the amendment is unclear.

A leading judicial view is that the operative legal meaning post-amendment should be derived from the amended Act itself, read as if it were originally enacted in its current form. Still, interpretive assistance may be drawn from the amending Act if it explicitly states its objective or provides explanatory context.

Retrospective Effect and Pending Proceedings: Simply because an amendment is textual does not automatically mean it has retrospective effect. Courts will not apply the amendment to pending proceedings unless the statute expressly states that it is to do so. [*Akki v Municipal Borough, AIR 1955 SC 314*]

Effect on Unamended Provisions: Amending a portion of a statute does not necessarily affect the interpretation of the unamended parts unless the contrary intention appears. This interpretive approach is sometimes associated with the case *A-G v Lamplough*, though calling it a rigid "rule" is an overstatement. The real test is whether Parliament intended the amendment to affect the remainder of the Act.

Transitional Provisions and Effective Date: Courts must also account for the effective date of the amendment and any transitional provisions laid out in the legislation. These determine the extent and timing of the amendment's applicability.

Repeal

Meaning of Repeal

To repeal a law means to officially cancel it so that it no longer has legal effect. It results in the complete removal of a statute from the statute books, as if it never existed. This is different from an amendment, which only changes part of an existing law while keeping the rest intact. According to *Halsbury's Laws of England*, repeal means revoking and abolishing an Act and all its effects. *Black's Law Dictionary* defines it as a legislative act that abrogates or nullifies a statute.

Types of Repeal: Express and Implied

A repeal can be express or implied:

- **Express repeal** occurs when a new law clearly states that the old law is repealed.
- **Implied repeal** happens when a new law contradicts an existing one so significantly that both cannot exist together, making the older law automatically invalid.

Effect of repeal

When a law is repealed—either by this Act or by any other Central law or Regulation passed after this Act—certain legal effects continue unless the new law clearly states otherwise. The repeal does **not**:

- **Revive old laws or rights**: It does not bring back anything that had already ceased to exist or operate before the repeal took effect.
- **Invalidate past actions**: Any action already taken or experienced under the repealed law remains valid.
- **Affect vested rights or obligations**: Any rights, privileges, duties, or liabilities that were legally acquired or incurred under the old law remain intact.
- **Cancel penalties or offences already committed**: Any punishment or legal consequences for offences committed under the old law still apply.
- **Interrupt legal proceedings or remedies**: Any ongoing or potential investigation, court case, or legal remedy related to the above matters can proceed and be enforced as though the old law was still in place.

Thus, the purpose of Section 6 is to preserve the continuity of legal consequences, ensuring that the repeal of a law does not undo or disrupt anything already validly done under it unless explicitly intended by the new law. [*Section 6, General Clauses Act, 1897*]

Scope and Limits of Section 6: Section 6 applies in the following scenarios:

- Whether the repeal is express or implied.
- Whether it is partial or total.

- Whether it is followed by new legislation or not.
- Whether the repealed law was permanent or temporary (but still in force).

However, Section 6 does not apply if:

- The law ends automatically due to expiry (like sunset clauses).
- A rule is repealed by another rule (since rules are not Central Acts) [*Janardan Dagdu Khomane v. Eknath Bhikhu*, (2019) 10 SCC 395].

Effect of repeal of amending Acts

Section 6A ensures that if an amending law (which modifies another Act by insertion, deletion, or substitution) is repealed, the amendments made by it will still remain in effect, unless the repealing law states otherwise [*Section 6A, General Clauses Act, 1897*].

Revival of a repealed law must be expressly stated

If a Central Act or Regulation seeks to bring back (revive) a law or part of a law that had been wholly or partially repealed, then it must clearly mention this intention in the text. The revival will not happen automatically or by implication. [*Section 7, General Clauses Act, 1897*]

Repeal and subordinate legislation

Subordinate legislation (rules, notifications, etc.) made under a repealed statute ceases to exist, unless a saving clause explicitly allows it to continue.

However, Section 24 of the *General Clauses Act, 1897* allows the continuance of such subordinate legislation under the new statute if it is not inconsistent with the re-enacted provisions [*R.K. Garg v. Union of India*, AIR 1981 SC 2138].

Recent Case Law Examples

In *Ferrodous Estates (P) Ltd. v. P. Gopirathnam (decd)* [2020 SCC OnLine SC 825], the Supreme Court considered the effect of repeal on contracts and suits for specific performance. In *Indore Development Authority v. Manoharlal* [2020 SCC OnLine SC 316], the Court clarified the impact of repealing the Land Acquisition Act, 1894 through the 2013 Act. In *Addl. CIT v. Shri Gopal Gram Seva Sahakari Mandli Ltd.* [Gujarat High Court, 02.12.2014], the implications of repeal in tax administration were addressed.

Status of Central Acts

A snapshot of the status of Central legislation shows:

Period	Acts Enacted	Acts in Force	Acts Repealed
1834–1949	2,910	380	2,530
1950–2014	3,702	2,410	1,301
Total	**6,612**	**2,781**	**3,831**