

Interpreting Taxing Statutes 9 – Preliminary material

In an Act the short title is followed by (a) the serial number with calendar year, (b) the date of passing (in square bracket) (c) the long title, (d) the preamble, if any, and (e) the enacting formula.¹

SYNOPSIS

Serial number

Date of passing

Long title

Preamble

Enacting formula

Voting of preliminary materials

Serial Number

Every Act is assigned a serial number. The numbering runs from the beginning of each calendar year. For example, the Income Tax Act 1961 carries the serial number 43 of 1961, where 43 is the serial number of the Income Tax Act out of the total number of Acts enacted during the year 1961. The serial number is usually put in parenthesis after the short title such as Income Tax Act 1961 (43 of 1961) for citing the Act. The significance of serial number is in determining which of two Acts receiving presidential assent on the same date is to be treated as first in time. Where two Acts passed on the same day are inconsistent, the serial number indicate which of them, being deemed the later, is to prevail.

Citation by serial number: Usual method of citing an Act is by the short title followed by its serial number. GC Sec 28(1) prescribes that –

¹ Bennion 2020 s 2.5

“...any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the **number and year thereof**, and any provision in an enactment may be cited by reference to the section or subsection of the enactment in which the provision is contained.”

Date of passing

Date of passing the date when the Constitutional head gives his assent by putting a signature. It is mentioned in the square bracket just after the serial number on the right hand side.

Long title

The long title begins with the words ‘An Act to ...’ and sets out in general terms the content or purpose of the Act. The long title is not, however, designed as an interpreter’s guide to the content. It is a remnant from the Bill which on presidential assent became the Act and its true function relates to the Bill rather than the Act. Under the rules of parliamentary procedure, the long title must cover everything in a Bill. If the Bill is amended so as to go wider than the long title, the long title is required to be amended to correspond. One important aspect of the long title to a Bill is that it plays a role in determining the scope. In Lok Sabha an amendment is out of order if it is outside the Bills scope and broadly similar principles apply in Rajya Sabha. The drafter may therefore seek to influence decisions about scope by drawing the long title tightly. The long title for modern Act tends to be relatively short eg the long title of the Central Goods and Service Act 2017 reads as follows:

“An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.”

Preamble

A preamble states the purpose of the Act and may recite the mischief that it is intended to remedy. It begins with the word 'Whereas'. In early times 'Albeit' was also used. A preamble is an optional feature for public general Acts and is rarely included. Preamble of the Central Excise Act 1944 reads as follows:

“Whereas it is expedient to consolidate and amend the law relating to central duties of excise on goods manufactured or produced in certain parts of India.”

Enacting formula

The enacting formula or purview of an Act is the verbal formula expressing the Act's nature as a command of the sovereign legislature, namely the President in Parliament. It immediately follows the long title and date of passing unless there is a preamble, in which case it follows the preamble. It is now purely formal, with no direct significance in interpretation. The form adopted in India since 26th January 1950, when India became a Republic, is as follows – "Be it enacted by Parliament in the (calendar) year of the Republic of India as follows".

Voting of preliminary materials

It may be mentioned here that the practice followed in the Indian Parliament is to put the long title, preamble and the enacting formula to vote only after all the clauses of the Bill are put to vote and decided upon.²

² Rajgopaul 1980