SYNOPSIS

Act

An Act is a formal product of legislature. It is a law enacted by the legislature and assented to by the constitutional head, such as the President or Governor. [*Bennion 2020 s 2.1*]

While the word 'act' in a general sense simply means an action taken, in legal terms it refers to the outcome of formal decision-making by public institutions like legislatures, courts, councils, or magistrates. More precisely, an Act is a formal law produced by a legislative or similar deliberative body.

Acts are enacted to regulate specific areas of law or public life, and are often applied to particular domains. For example, the Companies Act governs the formation and regulation of companies in India. Some Acts, like the Income Tax Act, 1961, serve as complete legal codes with self-contained mechanisms to administer the subject comprehensively, covering aspects like levy, computation, assessment, and recovery of income tax.

‘Act’ is often used interchangeably with the word ‘statute’. However, ‘statute’ is a broader term that includes any law made by legislative authorities, as well as administrative agencies and local governing bodies.

The only key to mastering an Act is to read it again and again.

Distinction between Law and Act

An Act is a specific form of law, created through formal legislative procedures. It is a statute passed by a legislative body such as Parliament or a State Legislature and comes into force upon receiving presidential or gubernatorial assent and publication in the official Gazette.

A law, on the other hand, is a broader and more generic term. It includes:

- Statutory law (Acts),
- Administrative rules,
- Judicial decisions (common law),
- Customs recognized by courts.

Thus, all Acts are laws, but not all laws are Acts.

An Act begins its journey as a Bill, which is merely a proposal without legal force. Upon passage by both Houses and receiving the President’s assent, it becomes an Act and hence a binding law.

Law, as an enforceable system, includes not only enacted statutes (Acts) but also:

- Constitutional provisions (supreme source),

- Case law,
- Subordinate legislation,
- Rules and notifications issued under Acts.

Acts usually deal with specific subject matters. For instance, the Income Tax Act, Companies Act, or Factories Act regulate distinct legal domains. Law is more general, encompassing a wide legal framework, ensuring public order, justice, and protection of rights. Therefore, Acts are tools to implement specific legal intentions, while law is the system in which those tools operate.

So, an Act becomes enforceable law only after due process: passage, assent, and notification. A law is enforceable per se, including Acts, constitutional provisions, and judicial pronouncements. Also, courts do not consider a Bill (unpassed Act) as law or legally binding, since its future is uncertain and speculative.

Summary of difference in Law and Act:

Aspect	**Law**	**Act**
Definition	A general system of rules, principles, and regulations enforceable by the state	A specific statute passed by a legislature
Nature	Broader term, includes statutes, common law, rules, customs	Narrower term, refers to specific legislation
Origin	Emerges from Constitution, legislation, and judicial decisions	Begins as a Bill, passed by legislature, becomes law after assent
Scope	Covers general legal framework and public obligations	Targets specific areas (e.g., companies, taxation)
Status	Can exist independently of a legislative process (e.g., constitutional law)	Exists only after legislative procedure is completed
Enforceability	Immediately enforceable if it meets constitutional tests	Not enforceable until passed, assented, and notified
Binding	Constitutionally supreme and	Subordinate to Constitution, subject to

Aspect	**Law**	**Act**
Nature	overarching	judicial review
Example	Right to Equality (Fundamental Right under Constitution)	Right to Information Act, 2005

Bill

A Bill is a written draft of a proposed law formally introduced in the legislature for discussion and approval before becoming an Act. [*Handbook for Members of Rajya Sabha (1999), cited in Wharton (2018), p. 208*]

Unlike an 'Act', which is a law already enacted, a 'Bill' is just a legislative proposal in its preliminary stage. It becomes an 'Act' only after it has been passed by both Houses of Parliament and receives the President's approval. Until that process is completed, a parliamentary Bill has no legal force and does not create any binding legal effect.

It has been held that it is improper to base decisions on the possible effect of a Bill still before Parliament, since it may never become law or may be enacted in a different form; such speculation lies beyond judicial consideration. [*Willow Wren Canal Carrying Co Ltd v. British Transport Commission [1956] 1 All ER 567, cited in Bennion (2020), p. 30*]

Doctrine of passing and assenting

The principle that a Bill becomes law only after being passed by both Houses of Parliament and receiving the sovereign's assent traces back to English law of the 13th century, and was clearly articulated in *Prince's Case (1606)*. [*Prince's Case (1606) 8 Co Rep 13b, cited in Bennion (2020), p. 30*]

The Indian Constitution expressly provides for the introduction and passage of Bills in Parliament under Article 107 and their assent by the President under Article 111; similarly, for State legislatures, Articles 196 and 200 govern the passage of Bills and the Governor's assent, respectively. [*Constitution of India, Arts. 107, 111, 196 & 200*]

Legislative Sovereignty and Constitutional Limits

A legislative enactment may create, amend, codify, or repeal any legal rule—statutory or common law—since Parliament's legislative authority is plenary and unrestricted in substance or scope. [*Madzimbamuto v. Lardner-Burke and George [1968] 3 All ER 561, cited in Bennion (2020), p. 31*]

One key feature of legislative supremacy is that no Parliament can bind a future Parliament. As a result, **a later law prevails over an earlier one** to the extent of any inconsistency. This principle ensures that newer legislative choices reflect changing priorities and contexts, thereby overriding older provisions if they conflict.

Unlike the English doctrine of parliamentary sovereignty, which is restrained only by political or conventional checks, India's Parliament operates under a written Constitution that is the supreme law of the land. All legislative power derives from Article 245(1), and every enactment must conform to constitutional provisions, being subject to judicial review and invalidation if it exceeds competence or violates the Constitution—thereby ensuring that Parliament's authority is constitutional, not absolute.

Constitutional Restrictions

The doctrine of parliamentary sovereignty applies fully in England, but in India, Parliament is bound by constitutional limitations. The legislative competence of Parliament or the State Legislatures is constitutionally restricted by:

- Fundamental Rights [Article 13],
- Distribution of legislative powers [Article 246],
- Freedom of trade [Articles 301–307],
- Procedural safeguards [Articles 107, 111, 196, 200].

Doctrine of Ultra Vires and Severability

Any law that violates these constitutional boundaries is deemed ultra vires, i.e., beyond the legal authority of the legislature, and can be struck down by the courts. In case only part of an Act is unconstitutional, that portion may be severed, and the rest of the law may remain valid—provided it can operate independently.

Bare Act

The term "Bare" means **basic or without additions**, and an "Act" refers to a written law enacted by the Legislature. When combined, the phrase "Bare Act" means *a* written law passed by Legislature in its most original, unaltered form.

A Bare Act is the official text of a statute as it was enacted, without any interpretations, commentaries, or explanations. It is simply the law in its purest form. Bare Acts do not contain any case law references, illustrations, or analysis. They are intended to present the bare language of the law, so that anyone—especially legal professionals and students—can read the precise words of the statute.

Bare Acts are published to provide clarity on what exactly the Parliament has enacted on a specific subject, such as the Income Tax Act 1961, or Central Goods and Services Tax Act 2017.

Rules and Regulations revolve around the parent Act: Every Act passed by the legislature acts as the primary law on a particular subject. To support its enforcement, the government issues various rules, regulations, notifications, and orders under the authority granted by the Act. These are collectively known as subordinate legislation. Subordinate legislation provides detailed procedures and operational clarity, but it cannot function independently. It is always legally and structurally linked to the parent Act and must conform to its provisions. All such legal instruments derive their validity from the Act, making the Act the central piece of legislation, around which all other supporting legal mechanisms revolve.

In the context of income tax law, the Income Tax Act, 1961 is the main legislation that governs the subject of income taxation in India. All other legal instruments such as the Income Tax Rules, 1962, as well as various notifications, circulars, and orders issued by the Central Board of Direct Taxes (CBDT), are either part of the Act or derive their authority from it. Thus, every rule, regulation, notification, or order related to income tax revolves around the Income Tax Act, 1961, making it the core legislation on the subject.

Types of Acts

Acts may be classified as public or private; general, local, or personal; constitutional, treaty, or financial; and as consolidating, codifying, declaratory, or clauses Acts. [*Bennion (2020), s. 2.14*]

Public and private Act

In English law, based on the judicial notice, an Act is classified as public and private. A public Act is judicially noticed as it dealt with a matter of public concern. A private Act, on the other hand, must be proved by anyone wishing to rely on it. Such distinction, however, has lost its relevance especially after English Interpretation Act 1978 s 3 which provides that "Every Act is a public Act to be judicially noticed as such, unless the contrary is expressly provided by the Act. [*Bennion (2020), p. 60]*

A private Act obtained for the benefit of specific persons must be construed strictly against its promoters when interpreted in relation to the public. [*Parker v. Great Western Railway Co (1844) 7 Man & G 253, cited in Bennion (2020), p. 61*]

In India, all Acts enacted by legislatures are public and judicially noticed under Section 52(1)(a) of the Bharatiya Sakshya Adhiniyam, 2023 (corresponding to Section 57(1) of the Indian Evidence Act, 1872).

Public and private Bill: Mention may, however, be made of the distinction between Public Bill, Private Bill and Private Member's Bill. Based on the parliamentary procedure of England, a Bill is classified as public, private, and private member's Bill. A public Bill is introduced by the government ministers. A private Bill is promoted by individuals or bodies seeking powers beyond, or in conflict with, the general law and are introduced, based on their petitions, by government ministers. A private member's bill is introduced by a member of the legislative body who is not a government minister.

In India, there is no concept of private Bill, rather the private member's Bill is often referred to as private Bill and there is no distinct rule of interpretation for them.

General, local and personal Act

In English jurisprudence, based on the application, an Act is classified into general, local or personal. A general Act applies, in some way, to the entire community. An Act is local if it applies to a particular locality but is of general interest to the community in that locality. An Act is personal if it is limited to particular individuals and is only of interest to them.

Classification by Territorial Application in India: In India, there is a distinction of central (or union or federal) and state (or unit) government. An Act made by the Parliament of India is a Central Act and may apply to the entire or part of the territories of India (which may comprise one or more states and union territories of India), whereas an Act made by a State Legislature is a State Act and may apply to the entire or part of the territory of the state of India. This territorial application is expressly stated in the 'extent' clause under section 1 of each Act.

Constitutional, treaty and finance Act

Constitutional Act: Although the United Kingdom does not have a single written constitution, English courts have recognised certain statutes as having constitutional status due to their foundational significance in shaping governance and civil liberties. These constitutional Acts include historical and modern legislation such as the Magna Carta, Petition of Right 1628, Bill of Rights 1689, Act of Settlement 1701, Act of Union 1707, European Communities Act 1972, Human Rights Act 1998, Scotland Act 1998, Northern Ireland Act 1998, Constitutional Reform Act 2005, and Government of Wales Act 2006 [Bennion 2020, p. 63]. These Acts are treated with a higher degree of protection, often requiring express repeal to be altered.

Constitutional Amendment Act: In India one may categorize the Constitutional Amendment Act as a special class because of the special procedure of its passage by the Parliament and ratification by the State Legislature [*Art 368*].

Treaty Act: Acts that incorporate or implement international treaties constitute a distinct category of legislation. An international treaty does not form part of Indian law unless it is incorporated through an Act of Parliament [*Art 253*].

Finance Act: Finance Acts and other taxation or appropriation laws form a distinct class, highlighting the dominant role of the lower house of the Parliament or the State Legislature. It is constitutionally important that taxes are levied fairly, collected honestly, and expended in accordance with legislative approval. [*Art 109 and 198 specifying special procedure for Money Bills*].

Consolidating, codifying, declaratory, and clauses Act

Consolidating Act: A consolidation Act brings together a number of existing provisions on a topic in a single Act. [*Bennion 2020 p 64*]

For example, when different laws on income tax are combined into one comprehensive Act, it is called a consolidating Act.

The provisions relating to the law on a given subject matter are often found in a series of Acts. As a consequence, investigation of the law on a given subject requires simultaneous reference to a number of separate Acts. This problem can be solved by a re-enactment of the scattered provisions into one Act. Consolidation is, thus, a process of combining the legislative provisions on a single topic into one coherent enactment. The earlier Acts are repealed and in their place is substituted a single Act which embraces the subject matter of the earlier Acts. The aim of consolidation is to allow for easy access to a particular subject matter on which there would have been numerous amendments to the law at different times. An important point to observe in the consolidation of legislation is that the Acts to be consolidated must be in respect of the same subject matter. It would be inappropriate to consolidate fiscal legislation with family law legislation. Furthermore, where legislation is strewn about into bits and pieces of different Acts, the Acts to be consolidated should be identified to ensure that all the Acts on the same subject matter have been brought together. This will reduce the likelihood of omitting an important piece of legislation in the consolidation exercise. [*Rajgopaul 1980*]

A consolidating Act, therefore, is a summation of existing Acts on the topic. It may be with or without amendments. Amendment means making changes to an existing law to reflect current needs or circumstances. It allows the law to stay relevant and updated over time. The long title of the Income-tax Act, 1961 reads:

> "An Act to consolidate and amend the law relating to income-tax and super-tax."

This means the Act was created both to combine earlier tax laws (consolidation) and to modify them as needed (amendment), making the law more structured and updated.

Codifying Act: A codifying Act restates the law on a topic, whether common law or statutory. [*Bennion 2020 p 64*]

In codification the various areas of the law, such as equity, the common law, orders of the executive and judicial decisions are examined and then condensed in the form of a code. In other words, the entire law on a particular subject matter is extracted from case law and any other relevant enactments, and placed into one single Act. This compilation is then used as the prima facie evidence of the existing law on that subject. [*Rajgopaul 1980*]

A codifying Act, therefore, is a summation of existing Acts and case laws on the topic.

Declaratory Act: A declaratory Act is a special type of legislation enacted to clarify, confirm, or remove doubts about the meaning or application of an existing law. Its primary purpose is to declare what the law already is or was, rather than to create new legal rules. This may involve explaining the meaning of a previous statute or confirming what the common law position has always been.

As noted by legal scholars like Bennion, such Acts are often used to confirm the validity of previous actions or laws. [*Bennion on Statutory Interpretation, 8th Ed., 2020, p. 65*]

A key example is the Sales Tax Laws Validation Act, 1956, passed by the Union of India. This Act declared that even though state legislatures had no power to impose sales tax on inter-State transactions (which falls under Union jurisdiction), those state laws would be treated as valid as if they had been passed by the correct authority from the beginning.

Because declaratory laws are meant to affirm existing law, courts often treat them as having retrospective effect, unless stated otherwise. Their function is not to alter the law but to remove uncertainty about what the law has always been.

Clauses Act: A clauses Act sets out common-form provisions in order to shorten the new Act which incorporates it. For example, General Clauses Act 1897 contains clauses which are not required to be provided in a new Act.

Other types of Acts

A number of others distinctions have been drawn over the ages between different types of legislation, for example those between enabling (or enlarging) and restraining statutes, obligatory and permissive statutes, declaratory and remedial statutes, affirmative (or positive) and negative statutes. To this list may also be added Acts of indemnity, amnesty or oblivion. These distinctions or descriptions are either obsolete or of little practical relevance and are not discussed further. [*Bennion 2020 p 66*]

Drafting of Bill

Legislative department under Ministry of Law is responsible for drafting all government Bills. [*Bennion 2020 s 2.9*]

Drafting of Private Members' Bills: Bills sponsored by private members in Parliament are for the time being drafted by the members themselves, but, if any Bill is acceptable to the Government, care is generally taken by the Government draftsman to see that it is in proper form. [*Rajgopaul 1980*]

Stages in drafting of Bills

Formulation of legislative policy: The first stage in the preparation of a Bill is the formation of the legislative policy. At this stage administrative, financial or political considerations are more likely to be involved than legal considerations and these have to be sorted out by the officials in the administrative ministries concerned.

Feasibility advice: Once these are settled, rules of business framed under article 77(3) of the Constitution require that proposals for legislation be referred to the Ministry of Law for advice as to their feasibility from the legal and constitutional points of view. Such proposals are considered by the Ministry of Law in its Advice Section and advice is also tendered on the necessity or desirability of such legislation in the light of existing laws. The competency of Parliament to legislate on the subject under the Constitution is also considered at this stage, and the broad lines on which legislation may be undertaken are likewise often indicated. From the very nature of things, however, the advice tendered at this stage will have to be of a general character and it is reserved for the legal draftsman to examine the various provisions in greater detail at the drafting stage. [*Rajgopaul 1980*]

Cabinet approval: Under the rules of business, cases involving legislation have to be brought before the Cabinet for decision, and consequently, where a Minister in charge of an administrative Ministry decides, after consulting the Ministry of Law as stated earlier, that legislation on a specified topic should be undertaken, he causes to be-prepared a self-contained summary setting out the facts of the case and the legislative measures proposed. This summary, after being seen by the Ministry of Law in both the advice and drafting wings is submitted to the Cabinet for approval. [*Rajgopaul 1980*]

Office memorandum: After obtaining Cabinet approval, the administrative ministry is expected to prepare an office memorandum setting out in precise terms the lines on which it has been decided to legislate on the basis of which the Ministry of Law in the Legislative Section will draw up a Bill. A great deal depends upon the care and skill with which instructions to the draftsman are drawn. The summary to the Cabinet in most cases would be no substitute for this office memorandum for the summaries are invariably general in character. [*Rajgopaul 1980*]

Statement of objects and reasons: When a Bill is finalised and is approved by the Ministry sponsoring it, that Ministry attaches to the Bill a statement of objects and reasons relating thereto which is signed by the Minister in charge of the Bill. This statement has to be drawn carefully so that it does no more than indicate the intention behind the Bill and the reasons which have led up to it in a calm and judicial tone; very often such statements are drawn in consultation with the draftsman or is shown to him for approval. [*Rajgopaul 1980*]

Financial memorandum: The Rules of Procedure of either House of Parliament require that -

a) a Bill involving expenditure shall be accompanied by a financial memorandum inviting particular attention to the clauses involving expenditure and giving an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law;
b) clauses or provisions in Bills involving expenditure from public funds shall be printed in thick type or in italics.

[*Rajgopaul 1980*]

Memorandum for delegation of legislative power: The Rules of Procedure of either House of Parliament also require that a Bill involving proposals for delegation of legislative power shall be accompanied by a memorandum explaining the proposals and drawing attention to their scope and stating also whether they are of a normal or exceptional character. Parliament would ordinarily require that unless the subject matter of a Bill is of a special nature, exceptional types of delegated legislative power are confined within the narrowest possible limits. Where the delegation is of an exceptional nature, care has to be taken to explain why it is so. [*Rajgopaul 1980*]

Stages in passing of Bill

Introduction of Bill: The choice of the House in which a Bill (other than a Money Bill) is to be introduced is often a matter of convenience depending upon the state of parliamentary business or a matter of tactics. But more often than not, a Minister in charge of a Bill may feel that the Bill which he is sponsoring is of such a nature that it should be considered in the first instance by the directly elected representatives of the people in the Lok Sabha, barring Bills coming within articles 109 and 117(1), which may conveniently be referred to as financial Bills, all other Bills may originate in either House of Parliament.

Recommendation of Bill: Under article 3 of the Constitution, no Bill for the formation of new States or for the alteration of areas, boundaries or names of existing States can be introduced in either House of Parliament except on the recommendation of the President.

Under article 117(1), no Money Bill shall be introduced in the House of the People (Lok Sabha) except on the recommendation of the President.

Under article 274, no Bill which imposes or varies any tax or duty in which States are interested shall be introduced in either House of Parliament except on the recommendation of the President.

First reading / formal motion: Once the proof copies of Bills to be introduced in either House of Parliament are sent to that House by the Ministry of Law, the House takes charge. On the day the Bills are put down on the agenda for introduction, the Minister in charge of the Bill makes a formal motion for introduction which is seldom opposed. The next motion in respect of the Bill may be (a) that it be taken into consideration, (b) that it be referred to a Select Committee of the House, (c) that it, (not being a financial Bill) be referred to a Joint Committee of both Houses with the concurrence of the other House or (d) that it be circulated for eliciting public opinion.

Select or Joint Committee: Select committee is constituted of MPs from one House ie either Lok Sabha or Rajya Sabha. But in Joint Committee MPs from both the houses ie Lok Sabha and Rajya are included as members. These committee are not a standing one and is constituted for specific purpose eg to examine a specific legislative proposal (Bill).

If a Bill is referred to a Select or Joint Committee, the draftsman who prepared the Bill attends all meetings thereof and is responsible for revising the Bill in the light of the decisions taken at those meetings. Although not a member of the Committee, he is often permitted to explain the legal issues involved. The report of the Select or Joint Committee is prepared in the Parliament Secretariat but from the very nature of things that Secretariat has to work in close collaboration with the draftsman concerned.

Second reading: When a Bill (whether it has been examined by a Select or Joint Committee or otherwise) comes up before either House for consideration, it is in its second reading stage and it is open to the members to move amendments which are within the scope of the Bill and relevant to the subject matter of the clause to which they relate.

Amendments to the Bill: There are rules regarding admissibility of amendments and also notices thereof in order to afford the Minister concerned an opportunity to consider them. The draftsman is generally available in the official lobby during the progress of the Bills with which he is concerned to advice the

Minister in charge as to whether any amendment may or may not be accepted and, if it is to be accepted, in what form and so on.

In spite of the rules relating to notice of amendments, very often the progress of a Bill is so rapid that the draftsman obtains no opportunity of examining the effect of a proposed amendment or repairing any damage done by the hasty acceptance of an ill drafted amendment. Moreover, a hastily drawn up amendment during the course of an excited debate in the House may not always come right even if prepared or vetted by the official draftsman.

Third reading: The last motion in respect of a Bill is that it be passed with or without amendment as the case may be. This is the third reading stage. Discussion at this stage is confined to arguments in support of or against the Bill as amended or otherwise.

Passing of Bill: As soon as a Bill is passed by one House it is transmitted to the other House for concurrence with a message to that effect. Under article 107, a Bill is deemed to have been passed by both Houses if it has been agreed to by them, either without amendment or with such amendments only as are agreed to by both Houses. Article 108 provides for a joint sitting of both Houses in certain cases for resolving differences. Article 109 prescribes a special procedure for money Bills.

Final scrutiny: When a Bill is finally passed by both the Houses, the Secretariat of the House last in possession of the Bill (it will be the Lok Sabha in all cases of money Bills) sends a copy of the Bill as finally passed to the draftsman for formal scrutiny. At this stage, all that the draftsman may be able to do would be to point out errors relating to printing, spelling, punctuation, numbering of sections or clauses, cross references and marginal headings.

Under a rule made by either House, the presiding officer has the power to **correct patent errors** and make such other changes in the Bill as are consequential on the amendments accepted by the House.

Printing of passed bills: The Bill is then reprinted by the Parliament Secretariat in its final form and two copies thereof on thick paper authenticated by the presiding officer of the House concerned are sent to the Ministry of Law for submission to the President for his assent.

Assent by the Constitutional Head: The President / Governor may withhold the assent and return the bill other than a money bill for reconsideration; and if the bill is passed again by the Houses with or without amendment and is presented again to the President then it must be assented. [Art 111 Proviso]

Publication of Act

A Bill becomes law as soon as it is assented to by the President. The Ministry of Law then gives it a number and the Act is published in the official Gazette as an Act of Parliament.

Special consideration in passing of a money bill

Article 110 says that a Bill shall be deemed as Money Bill if it contains provisions dealing with all or any of the following matters only:

a) the imposition, abolition, remission, alteration or regulation of any tax;

b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any financial obligation undertaken or to be undertaken by the Government of India;

c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into, or the withdrawal of moneys from, any such Fund;

d) the appropriations of moneys out of the Consolidated Fund of India;

e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

f) the receipt of money on account of the Consolidated Fund of India or the Public Account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State.

Introduction in House of People - A Money Bill shall not be introduced in the council of states (ie it need to be introduced in the house of people). [Art 109(1)]

Recommendation by Council of States - After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of **fourteen days** from the date of receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States. [Art 109(2)]

Acceptance with amendments - If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People. [Art 109(3)]

Acceptance without amendments - If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States. [Art 109(4)]

Deemed acceptance - If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People. [Art 109(5)]

Legislation by Ordinance

Article 123 of the Constitution empowers the President to promulgate ordinances when immediate legislation is necessary and Parliament is not in session, while Article 213 grants similar power to a State Governor when the State Legislature is not in session. [*Constitution of India, Arts. 123 & 213*]

The ambit of this Ordinance-making power of the President is coextensive with the legislative powers of Parliament, that is to say, it may relate to any subject in respect of which Parliament has the right to legislate and is subject to the same constitutional limitations as legislation by Parliament. [*Basu 2020 p 209*]

Thus, an Ordinance cannot contravene the Fundamental Rights any more than an Act of Parliament. In fact, Article 13(3)(a) doubly ensures this position by laying down that law includes and Ordinance.

The Ordinance may be of any nature as Parliamentary legislation may take, eg it may retrospective or may amend or repeal any law or Act of Parliament itself. An Ordinance is of temporary duration for it must be laid before Parliament when it reassembles, and shall automatically cease to have effect at the expiration of six weeks from the date of re-assembly unless disapproved earlier by Parliament.

Mandatory Laying of Ordinances: Requirement of laying an Ordinance before the Parliament is a mandatory constitutional obligation cast upon the government and a failure to comply with this is a serious constitutional infraction and the abuse of Constitutional process. [*Krishna Kumar Singh v State of Bihar (2017) 3 SCC 1*]

Conditions for Exercising Ordinance Power: Ordinance making power is to be exercised by the President on the advice of the Council of Ministers, not in the exercise of his individual judgment. Ordinance making power will be available to the President only when either of the two Houses of Parliament has been prorogued or is otherwise not in session, so that it is not possible to have a law enacted by Parliament. He shall have no such power while both Houses of Parliament is in session. Even though the Parliament is not in session, the President cannot promulgate an Ordinance unless he is satisfied that circumstances such as to take 'immediate action'. But 'immediate action' has no necessary connection with an emergency as is referred to in Article 352. [*Basu 2020 p 210*]

Judicial Review of Presidential Satisfaction: Moreover, the President's satisfaction could possibly be challenged in a court of law on the ground that it was mala fide, eg where the President has prorogued a House of Parliament in order to make an

Ordinance relating to a controversial matter, so as to bypass the verdict of the Legislature. [*Basu 2020 p 211*]

Drafting and Replacement of Ordinances: The procedure of drafting an Ordinance is the same as of a Bill, except for the parliamentary procedure of passing. Whenever a Bill seeking to replace an Ordinance by a Bill is introduced in either House, a statement explaining the circumstances which necessitated immediate legislation by Ordinance has to accompany it. [*Rule 71 of Lok Sabha Rules 2014*]

Publication of Act in Official Gazette

An Act becomes law as soon as it receives the assent of the Constitutional Head, regardless of its publication. However, government has a general responsibility for ensuring that Acts are publicly available. [*Bennion 2020 s 2.13*]

Legal newspaper - An official gazette is the legal newspaper of a country, or of an administrative part of a country, which publishes the text of new laws, decrees, regulations, treaties, legal notices, and court decisions. The laws published in official gazettes are primary and official source of statutory law. Publication in the gazette, in many cases, initiates jurisdiction. The text published is the authoritative version, and commonly, the only published version.

Department of Publication - The publication of gazette in India is executed, as per the government of India (allocation of business rules) issued from time to time by the cabinet secretariat, by the Department of Publication, headed by the Controller of Publications, under the supervision of the Ministry of Urban Development, headquartered in Nirman Bhawan, New Delhi. Controller of publication is the authorized publisher, custodian and seller of Government of India Publications and periodicals including Gazette of India and Delhi Gazette with its copyright. It undertakes storage, sale and distribution of all saleable publications brought out by various Ministries/Departments. Electronic version of the gazette started in 2008.

Ordinary and Extraordinary Gazettes - Ordinary gazettes are regularly published weekly on a particular day of the week whereas extraordinary Gazettes are published any day depending upon the urgency of the matters to be notified.

G.S.R. (General Statutory Rules) including orders, bye-laws, etc. of a general character are issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administrators of Union Territory).

S.R.O. (Statutory Rules and Orders) are issued by the Ministry of Defence.

S.O. (Statutory Orders) are issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administration of Union Territories).

Numbering of the publication

Serial number of an Act of Parliament is given by the legislative department of the Ministry of Law and Justice and while publishing the Act in the official gazette the serial number is mentioned on top of it after the short title.

Notification and Gazette number - Notification number is given by the concerned department which is generally in series.

Such notifications are sent for publication in the official gazette by mentioning only the abbreviation (ie G.S.R. or S.O.) leaving the space for number as blank or an underscore. This is then filled in by the Press of Government of India before publication in the gazette.

Structure of a Gazette

Gazette of India is published in four parts as follows.

Gazette of India Part I

Part/Section	Particulars
Part I Sec 1	Notifications relating to Non statutory Rules, Regulation, Orders and Resolutions issued by the Ministry of Government of India (other than the Ministry of Defence) and by the Supreme Court of India
Part I Sec 2	Notifications regarding Appointment, Promotions, Leave etc. of the Government Officers issued by the Ministry of Defence and by the Supreme Court of India
Part I Sec 3	Notifications relating to resolutions and non-statutory orders issued by the Ministry of Defence. (Not Published Regularly)
Part I Sec 4	Notifications regarding appointments, promotions, leave etc. of Government Officers issued by the Ministry of Defence.

Gazette of India Part II

Part/Section	Particulars
Part II Sec 1	Acts, Ordinance and Regulations.
Part II Sec 1A	Hindi version of Acts, Ordinance and Regulations.
Part II Sec 2	Bills & Reports of Select Committee on Bills
Part II Sec 3(i)	GSR issued by the Min. of Govt. of India (other than Min. of Defence) & by Central Authorities (other than Administration of the Union Territory)
Part II Sec 3(ii)	SO issued by the Min. of Govt. of India (Other than the Min. of Defence) and the Central authorities (other than Administration of Union Territories).
Part II Sec 3(iii)	Orders other than Part II Sections 3(i), 3(ii) and 4.
Part II Sec 4	SRO issued by the Min. of Defence

Gazette of India Part III & IV

Part/Section	Particulars
Part III Sec 1	Notifications issued by High Courts, Controller and Auditor General, UPSC Indian railways and attached and subordinate offices of Govt. of India.
Part III Sec 3	Notifications issued by or under the authority of Chief Commissioner

Part III Sec 2	Notifications and Notices issued by the Patent Office, relating to Patents and Designs
Part III Sec 4	Misc. notifications including notifications, orders advertisements and notices issued by statutory bodies
Part IV	Advertisements and notices issued by private individuals and private bodies

Citation of an Act

The usual method of citing an Act is by its short title. However, it may also be cited by its serial number. [*Bennion 2020 s 2.16*]

Short title or serial number: Short title is the brief label given to an Act. The serial number (referred to as chapter number in England) is sometimes added in brackets after short title, although there no particular need to do this. Serial numbers are assigned to Acts on their assent by the constitutional head and a series is maintained for each calendar year. [*Bennion 2020 p 67*]

Proof of an Act

Public Acts are judicially noticed and no proof is required of them. [*Bennion 2020 s 2.18*]

The Court shall take judicial notice of all laws in force in the territory of India. [*BSA 2023 s 52(1)(a) = IEA 1872 s 57(1)*]

Laws here includes Act of legislature, delegated legislations, and authorized law reports. A fact is said to be proved when after considering the matter before it, the court believes it to exist. But in case of facts of which judicial notice is taken, the judge's belief in their existence is induced by the general knowledge acquired otherwise than in the proceeding at hand. So, no fact of which the court takes judicial notice need be proved eg the court can take judicial notice of the fact that many of industrial workers are illiterate, or the fact that rental has escalated everywhere. [Woodroff 2001 v 2 p 2676]

Validity of an Act

The only ground for challenging the validity of a duly passed and assented Act is that it is unconstitutional; the court will not examine the irregularities in connection with introduction of a Bill or its passage through legislature or the motives of its promoters or legislators. [*Bennion 2020 s 2.19*]

An Act which has been passed by the legislature and assented by the constitutional head can only be challenged with respect to its validity on the ground of being against the constitutional norms; in other words, an Act may be invalid only if it is unconstitutional.

Any law not conforming to the provisions of the Constitution may be declared *ultra vires* (ie beyond the competence of the legislature) by the court and such law may be struck off. If it is an Act then those provisions which do not pass the test of constitutionality may be struck off provided the remaining provisions are not affected by it. [Article 13]

Irregularities in connection with making of an Act: It is well established that the court will not look behind an Act and investigate the process by which it was enacted; the internal workings or procedures of the legislative body are a matter for that legislative body not the courts. An error, if discovered, would almost certainly be dealt with by validating legislation. Nor can it be argued that an Act is vitiated on the ground that members of the legislative body were disqualified or that the Act was obtained by fraud or other bad faith on the part of legislators or promoters. [*Bennion 2020 p 72*]

Judicial Restraint in Legislative Wisdom: The Supreme Court held that courts cannot examine or question the wisdom, policy, or necessity of a legislative measure. The judiciary's role is confined to assessing legislative competence and constitutional validity, not the soundness of the policy underlying the enactment. Once a law is within the legislature's authority and does not contravene constitutional provisions, its wisdom is not open to judicial review. [*Commissioner of Sales Tax v. Mangal Sen (1975) 4 SCC 35*]