

# **STATUTE INTERPRETATION**

**Research**

**By**

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- The term “Statute” is usually used as interchangeable with the term “enactment”. The term “Enactment” has been defined in sub-section (17) of Section-3 (definition clause) of the General Clauses Act (London, 1897).
- 2. See generally Interpretation Act 1889 (London).

## Selected Case Law

- **3.** Most settled principle of interpretation is that the court must deduce the intention of the parliament from the words used in the Act. See e.g. **case titled Shahid Nabi Malik & another V. Chief Election Commissioner etc. Cited as PLD 1997 SC 32.**

- **4.** To construe and/or interpret a statute the whole of the statute is to be taken into consideration to know the over all and ultimate intention of the legislature whether about public policy or a specific matter. The intention of the legislation should be manifest and expressed. The specific text which has direct nexuses with the problem should be interpreted in the over all context of the legislation. See e.g. **case titled M/S Sunrise Textile Ltd etc. vs. Mushreq Bank & others cited as PLD 1996 Lah 1; Also see generally; 1993 CLC 631, 1993 CLC 412; 1993 CLC 2009.**

- **5.** The interpretation should be beneficial to the “just & right” and thus, it should advance the cause of justice. See e.g. **case titled Abdul Rehim etc. v. UBL Pakistan cited as PLD 1997 Kar. 62.**

- **6.** While interpreting a statute attempt should be made to suppress the mischief and advance the justice. See e.g. **case titled Abdul Fareed Khan v. Ferozuddin cited as 1993 CLC 515 [Karachi].**

- **7.** Doubts in interpretation, if any, are to be resolved in favour of the affectee. See e.g. **case titled Zubair Ishtiaq Qureshi v. Chairman Academic Council cited as 1993 CLC 1675 [Karachi] at p. 1677.**

- **8.** Whether a particular word and term is used in its “generic sense” or its common and popular meaning shall be employed, will depend on the context of the statute. See e.g. **case titled Saforic Textile Mills Ltd. Etc. v. Government of Sindh cited as PLD 1990 Kar. 402 at p.407.**



- **9. The elementary rule of construction/interpretation is to construe the words “literally”. See e.g. case titled Mehar Khan v. Yaqub Khan cited as 1981 SCMR 267 at p. 273, PLD 2010 SC 759.**

- **10.** Where there is an enactment with regard to a particular trade or business and words are used which everybody conversant with that trade or business knows, then those words must be construed as having that particular meaning of such words. See e.g. **case titled M/S Asbestos Cement Industries Ltd. Vs. Lahore Municipal Corporation cited as 1994 SCMR 262 at p. 265. Also see Civil and Military Press Ltd. V. Pakistan cited as 1985 CLC 1021 [Karachi] at p. 1025.**

- **11. Statute law silent-Muslim jurisprudence to be resorted to. See e.g. case titled Muhammad Bashir v. State cited as PLD 1982 FSC 297.**

- **12.** Government instructions issued for guidance of its officers, the government is bound to follow such instructions and obliged to implement its own interpretation. See e.g. **case titled Munawar-ud-Din; cited as PLD 1979 Note 80 [Lahore].**

- **13.** When the text of the legislation gives rise to two interpretations, the court should avoid absurd construction leading to injustice and should adopt the construction in accord with reason and justice. See e.g. **case titled Pakistan Tobacco Co. v. Employees Union cited as PLD 1961 SC 403; See also PLD 1964 Lah 101; PLD 1966 AJ & K 38.**

- **14.** While interpreting one has to fill in the gaps in a piece of legislation where a plain construction would lead to absurd results. See e.g. **case titled Lt. Col. Nawabzada Ahmad Amir Khan v. Controller Estate Duty etc. cited as PLD 1961 SC 119; See also PLD 1964 Dacca 773.**

- **15.** Court has to afford interpretation, which would save the law rather than destroy the same. See e.g. **case titled Abdul Rahim and Others v. U.B.L. cited as PLD 1997 Kar.62. See also 1998 FSC 117.**

- **16.** Statutory rule cannot be modified or amended by administrative instructions. See e.g. **case titled Muhammad Riaz Akhtar v. Sub-Registrar cited as PLD 1996 Lah 180 at p.187.**



- **17.** Provisions of a statute cannot be overridden by agreement. See e.g. **case titled M/S Sethi Straw Board v. Punjab Labour Court-III, cited as PLD 1977 Lah. 71.**

- **18.** A forged or illegal document does not provide any basis to all subsequent documents founded on it. See e.g. **case titled John Paul v. Irshad Ali & others, cited as PLD 1977 Kar. 267.**

- **19.** In case of any ambiguity in statute, it is permissible to refer to other relevant facts and circumstances for ascertaining the true intention of the legislature, such as debate in the Assembly preceding the passing of the statute under interpretation. See e.g. **case titled Mehar Zulfiqar Ali Baber v. Government of Punjab, cited as PLD 1997 SC 11.**

- **20.** There is no estoppel against statute. See e.g. **case titled M/S Sethi Straw Board v. Punjab Labour Court-III, cited as PLD 1977 Lah. 71 at p. 74; See also PLD 1997 SC 11; PLD 1977 Lah.85; PLD 1963 Lah. 606.**

- **21.** Where there is inconsistency between the parent Act and Rules framed thereunder the first attempt should be to reconcile the inconsistency between the two and only when the conflict between the Act and the Rule is irreconcilable, the Rule will have to be declared ultra vires. See e.g. **case titled Mian Hakimullah etc. v. Addl. District Judge cited as 1993 SCMR 907. Also see case titled Sayed Mukhtar Gilani v. Registrar cited as 1993 CLC 463 (Azad J & K).**

- **22.** It is not for the courts to fill in the lacuna or remove the defects in an enactment adopting construction which will remove the lacuna and advance the purpose and object of the statute. See e.g. **case titled Sayed Muhammad Aslam v. Sayed Mehdi Hussain etc. cited as PLD 1970 Lah. 6; See also case titled Province of East Pakistan v. Sharifullah etc. cited as PLD 1970 SC 514.**

- **23.** A “Proviso” cannot travel beyond the scope of the main enactment. See e.g. **case titled Bakh Elahi v. Qazi Wasif Ali cited as 1985 SCMR 291.** See also **case titled Commissioner Income Tax v. West Punjab Factories cited as PLD 1966(W.P.) Lahore 236 at p. 240; See generally PLD 1976 Lah. 1273; PLD 1966 Lah. 236; PLD 1965 SC 434.**

- **24.** “Proviso” to a rule be allowed to override, nullify or whittle down statutory provisions or their effect. See e.g. **case titled Emmanuel Masih v. Punjab Local Councils Election Authority cited as 1985 SCMR 729.**



- **25.** The MERE Fact that the rules are mentioned along with provisions of a statute, it does not imply that rules are raised to the level of statute under which they are framed. Proviso to rule cannot, therefore, achieve an overriding power nor used to enlarge operation of a statute. (emphasis added). See **case titled Emmanuel Masih v. Punjab Local Council cited as 1985 SCMR 729; See also case titled Bakhsh Elahi cited as 1985 SCMR 291.**

- **26.** Punctuation is not an essential part of a statute and its importance is not more than the text itself. See e.g. **case titled Nazar Ali v. Secretary, cited as 1963 Kar. 575; See generally PLD 1984 B.J 15; PLD 1973 Lah. 256; 1998 SCMR 91. See also case titled Majid Khan v. Mujahid Khan cited as PLD 1966 (W.P) Peshawar 264.**

- **27.** If the meaning, due to merely punctuation of a statute leads to an absurd result or in conflict with some other provisions of the statute the punctuation must yield to an interpretation that is reasonable and makes it consistent with the other provisions. See e.g. **case titled Majid Khan etc. v. Mujahid Khan etc. cited as PLD 1966 Pesh. 264; Also see generally PLD 1971 Kar. 535; 1972 DLC 91.**

- **28.** Use of comma between two parts of the provision stating, “..., which may include,...” would mean that the second portion does not control or restrict the meaning of the first portion. See e.g. **case titled M/S Dawood Yamaha Ltd. V. Government of Baluchistan cited as PLD 1986 Quetta 148.**

- **29.** Unlawful long user- cannot defeat provisions of a statute. No estoppel against statute. See e.g. **case titled Kohistan Travel v. Province of Punjab cited as PLD 1977 Lah. 85 at p.90.**

- **30.** “Proviso” – Exception to substantive provision. Definition clause – Has effect of a declaratory provision and governs all cases coming within it’s ambit. See e.g. **case titled Pramatha Nath Ch. Etc. v. Kamir Mondal etc. cited as PLD 1965 Supreme Court 434.**

- **31. Proviso:- Cannot travel beyond scope of main enactment – Proviso something subordinate to main clause. See e.g. case titled Province of Punjab etc. v. Nadeem & Co. cited as PLD 1976 Lah. 1273 at p. 1282.**

- **32.** Punctuation like colons, commas etc. may be of no help in construing legislation instrument – words like “and” or “or” may be interchanged. It is duty of the court to find correct meanings. See e.g. **case titled Muhammad Mumtaz-ul-Hasan v. Ataullah Mehar cited as PLD 1984 Lah. 27 at p.31.**



- **33.** Statutory rules cannot be modified or amended by administrative instruction. See e.g. **case titled Muhammad Riaz Akhtar v. Sub-Registrar cited as PLD 1996 Lah. 180 at p. 187.**

- **34.** Fiscal statutes to be strictly construed. See e.g. **case titled Muhammad Riaz Akhtar v. Sub-Registrar cited as PLD 1996 Lah. 180 at p. 187.**

- **35.** Effort should be made to harmonize seemingly inconsistent provisions – Two sections of Statute, if found repugnant, last must prevail. See e.g. **case titled Sahibzada Sharafuddin etc. v. Town Committee cited as 1984 CLC 1517 [Lahore] at p. 1520.**

- **36.** Court must proceed on assumption that legislature meant exactly what it said – court has not to depart from plain meaning of expression used in statute. See e.g. **case titled Rehmat Khan v. Abdul Razzaque cited as 1993 CLC 412 [Karachi] at p. 416.**

- **37.** Right of appeal being a substantive right and not a right of procedural nature could not be taken back. See e.g. **case titled Muhammad Ayyub v. Abdul Khaliq cited as 1990 MLD 1293 SC (Azad J & K).**

- **38.** Provisions vesting discretion on executive – construction should be minimize the discretion vested in the executive authorities. See e.g. **case titled Kamran Industries v. Collector cited as PLD 1996 Kar.68 at p. 101.**

- **39.** Government itself not only bound by instructions issued by it for guidance of its officers and public but also obliged to follow and implement its own interpretation of a particular provisions of law – Exception: when same found to be in clear violation of any law; **PLD 1979 Note 80 Lah; Ref: PLD 1970 SC 453.**
- Crawford's statutory construction 1940 Edn P.399 legal control of By Government by Bernard Sehwarts & H.W.R Wade PP-92-103-104.

- **40.** Statutory rules cannot be modified or amended by administration instruction. **PLD 1996 Lah 180 at P.187.**



- **41.** Right of appeal is a substantive right and the same cannot be regarded as a right of procedure alone until and unless such right is taken away retrospectively it would not affect the jurisdiction of the court to dispose of the appeal pending at the time of amendment according to law which was on the statute book before the amendment. See e.g. **case titled Ghazi & others v. The State cited as PLD 1962 Lah 662; Also see PLD 1962 Kar 285.**

- **42.** Words are not be employed in a statute if there is no ambiguity. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1308.**

- **43.** Omission in a statute cannot as a general rule be supplied by construction --- if a particular word is omitted from the terms of a statute, even though such a word is within the obvious purpose of the statute, the court cannot include the omitted word by supplying the omission and this is equally true where the omission was due to the failure of the legislature to foresee a missing word. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC(AJ & K) at P-1309.**

- **44.** Intention of legislature can be ascertained after reading the statute as a whole. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1309.**

- **45.** Each word used in a statute is intended to have some effect and no word is to be considered as superfluous or redundant. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1309.**

- **46.** While interpreting a statute, the court should presume that no part of it was intended to be meaningless and that the provisions of a statute could not have been intended to operate against each other. Courts lean against construction, which makes words unnecessary in Acts of Parliament. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1309. Also see 1946 Wag 152.**

- **47.** Court is not entitled to read words into an Act of the legislature unless a reason for it is to be found within the four corners of the Act itself. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1310.**

- **48.** General principles of interpretation statute. See e.g. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC(AJ & K) at P-1311.**



- **49.** Reference by president under defunct Constitution of 1956. **PLD 1957 SC (Pak) 219 Referred.**

- **50.** Law should be interpreted in such a manner that it should rather be saved than destroyed --- Law including the Constitution must be interpreted in a broad and liberal manner giving effect to all its parts and the presumption should be no conflict or repugnancy was intended by the frames--- In interpreting the words of an Act actual words used in fact throw light on intention of the law-makers and the other parts of the statute. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC(AJ & K) at P-1312.**

- **51.** Lacunas in a statute are not meant to be removed by the Courts --- Duty of the Courts is only to try and harmonize the various provisions of an Act passed by the legislature and not to fill in gaps or omission in the provisions of the Act by stretching the words. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1312.**

- **52.** To ascertain the legislative intent all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general, purpose and object of the Act itself. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1312.**

- **53.** Language used by the legislative is the true depository of the legislative intent and the words and phrases occurring in a statute are to be taken not in isolated or detached manner disassociated from the content but are to be read together and construed in the light of the purpose and in object of the Act itself. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1313. Ref: AIR 1953 SC 83; AIR 1953 SC 274.**

- **54.** In order to present conflict between two sections of a statute the two sections must be read together and the language of one interpreted and where necessary modified by that of the other. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1313. Ref: AIR 1944 Mad 361.**

- **55.** Courts are not concerned with the reason of policy of the Act and they have to give effect to the plain meaning of the section or to its expressed intention Courts have no means of finding out its implied intention. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1314. Ref: AIR 1944 Lah. 33.**

- **56.** Court is to see whether a reasonable meaning can be given after reconciling the various provisions contained in different sections and not to read one section independently of all other sections and give any unreasonable interpretation. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1314. Ref: PLD 1960 Dacca 506.**



- **57.** Legislature's defective phrasing --- only of the court. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1314. Ref: AIR 1938 Lah 606.**

- **58.** Consideration of hardship or injustice would never weigh with the court while interpreting a statute. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1315.**

- **59.** Court has to interpret a law as it is and not as it ought to have been --- presumption is that legislature did not intend to make substantial alteration in the law beyond what it explicitly declares either in express terms or by clear implication or in other words beyond the immediate scope and object of the statute --- intention to cut down or abolish resisting right must be clear and manifest. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1315. Ref: AIR 1930 Sindh 265.**

**60.** Difference of opinion between two judges of Supreme Court one being in Chief Justice --- Order of the senior (Chief Justice) would follow from the judgment of the court. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1315.**

- **61.** While interpreting a statute the words and phrases should be assigned ordinary dictionary meaning unless they are defined in the relevant statute. See e.g. **case titled Muhammad Ayub v. Abdul Khaliq cited as 1990 MLD 1293 SC (AJ & K) at P-1302.**

## **Other Golden Principles Of Interpretation**

- **62.** As a rule, the interpretation should be natural and appropriate. The terms “natural” and “appropriate” may be relative terms, but a sane person can definitely draw the maximum and the minimum parameters.

- **63.** The same is the position when the jurist say that the interpretation should be “simple” and “ordinary meaning” of the words should be followed. Every body understands “simple” and “ordinary meanings” of the word “father” but it is different when he is the husband of one’s mother and not his biological father and particularly when the situation is vice versa.

- **64.** The interpretation should help the administration of justice as far as reasonable possible.
- **65.** The interpretation should not be perverse so as to offend against common sense.
- **66.** Any statute/instrument(s)/document(s) is/are to be read as a whole.



- **67.** While interpreting a statute, effort must be made to reconcile various clauses for a rational meaning.
- **68.** Where a provision is not happily worded or is ill drafted, it should not affect the correct interpretation of the statute.
- **69.** Where a subordinate rule runs counter to the present law or rules that has to be ignored and the superior law or rules are to be given the effect.

- **70.** No superfluity or redundancy is to be attributed to the legislature. The court should presume that no part of it is intended to be meaningless and that the provisions of statute are intended to operate against each other.
- **71.** The words and phrases should be assigned ordinary dictionary meanings unless they are defined in the relevant statute.

- **72.** It should be a strong presumption while interpreting a statute that the legislature has consciously and intentionally chosen/selected and used the “words” particularly, when a “word” has been defined by the legislature itself in the definition or interpretation clause. The meanings given to a word in the definition or interpretation clause of a statute shall have overriding effect.

- **73.** General words following “specific word” shall have overriding effect as to their meanings.
- **74.** The “Golden Rule of Interpretation” by Maxwell is that the ordinary meaning of a word need not be adhered to if it will amount to be at variance with the intention of the legislature as collected from the statute itself.

- **75.** Technical words/terms/phrases in a technical legislation are to be construed in their technical meaning.
- **76.** Statute providing a mode for doing a thing in a particular manner, such thing has to be done in that particular manner and is no other or not at all.
- **77.** Legislature admitting two constructions it is not to be construed to lead obvious injustice.

- **78.** Interpretation favorable to the subject and/or validating such provision to be preferred.
- **79.** Interpretation consisting with smooth working of system to be followed.
- **80.** Interpretation to advance remedy and suppress mischief.

- **81.** Provisions coming in statute later in sequence will take preference.
- **82.** Provisions of law made in public interest and for public benefit overrides the provisions protecting individual right.
- **83.** When a law is reconstituted, previous law goes off the Statute book and only the new reconstituted law shall operate.

- **84.** Substantive right having been provided, remedy must follow.
- **85.** Rules capable of interpretation favouring employees should be preferred.