

COURSE-IV: OPTIONAL-IV:
INTERPRETATION OF STATUTES & PRINCIPLES OF LEGISLATION

Objectives :

As it is difficult to have legislations without ambiguous provisions, there is a need to make proper study of the rules and principles relating to interpretation of statutes. Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? With the emergence of legislation, interpretation of statutes became a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old and existing statutes contextually relevant, courts used to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by courts in construing statutes? How far are they successful in their strategy? With the above problems and perspective in view, this paper is framed.

Course contents:

UNIT I: Interpretation of Statutes

Meaning of the term 'Statute', Commencement, operation and repeal of statutes, purpose of interpretation of statutes, Restrictive and beneficial construction, Taxing statutes, penal statutes, Welfare Legislation Law, Interpretation of substantive and adjunctival statutes, Interpretation of directory and mandatory provisions, Interpretation of enabling statutes, Interpretation of codifying and consolidating statutes, Interpretation of statutes conferring rights, Interpretation of statutes conferring powers.

UNIT II: Aids to Interpretation

Internal Aids: Title, Preamble, Headings & Marginal Notes, Sections and Sub-Sections or Provisions, Punctuation marks, Illustrations, Exceptions, Proviso's and saving clauses, Schedules, Non-Obstante clause.

External Aids: Dictionaries, Translations, Travaux Preparatoires, Statutes in Pari material, Contemporanea Exposito, Debates, Inquiry commission reports and Law Commission reports.

UNIT III: Rules and Principles of Statutory Interpretation

Primary Rules, Literal Rules, Golden Rule, Mischief Rule (Rule in the Heydon's Case), Rule of Harmonious Construction, Secondary Rules, Noscitur a sociis, Ejusdem Generis, Reddendosingulasingulis.

Principles of Constitutional Interpretation, Harmonious construction, Doctrine of Pith and Substance, Colourable Legislation, Ancillary Powers, "Occupied Field", Residuary Power, Doctrine of Repugnancy.

UNIT IV: Presumption in Statutory Interpretation

Statutes are valid, Statutes are Territorial in Operation, Presumption as to Jurisdiction, Presumption against what is inconvenient or absurd, Presumption against intending injustice, Presumption against Impairing obligations or permitting advantage from one's own wrong, Prospective Operation of Statutes.

UNIT V: Principles of Legislation

Law-Making – The Legislature, The Executive and The Judiciary, Principles of Utility, Operation of these principles upon legislation, Distinction between morals and legislation.

Prescribed Book:

1. G.P. Singh, Principles of Statutory Interpretation, (7th Edition) 1999, Wadhwa, Nagur.
2. P. St. Langan (Ed.) Maxwell on The Interpretation of Statutes (1976) N.M. Tripathi, Bombay.
3. K. Shanmukhan, N. S. Bindra's Interpretation of Statutes, (1997) The Law Book Co. Allahabad.
4. V. Sarathi, Interpretation of Statutes, (1984) Eastern, Lucknow.
5. M. P. Jain, Constitutional law of India, (1994) Wadhwa & Co.
6. M. P. Singh, (Ed.) V. N. Sukla's constitution of India, (1994) Eastern, Lucknow.
7. Jeremy Bentham, Theory of Legislation, Wadhwa, Nagur.