

LEGISLATION (WALES) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Interpretation and Operation of Welsh Legislation

Section 4 – Effect of provisions in this Part

47. **Part 2** of the Act provides a set of presumptions or default provisions about the meanings and effects that Assembly Acts and Welsh subordinate instruments are intended to have. Section 4 makes provision about the operation of the rules in Part 2 in relation to a particular Assembly Act or Welsh subordinate instrument.
48. Even where Part 2 applies to an Assembly Act or Welsh subordinate instrument (i.e. it is enacted after Part 2 of this Act comes into force), some of the rules in Part 2 may be modified or excluded in relation to the particular Act or instrument. Section 4(1) provides that most of the rules in Part 2 have effect in relation to an Act or instrument except so far as “(a) express provision is made to the contrary or (b) the context requires otherwise”. This corresponds to the various provisions in the 1978 Act which state that rules in that Act apply unless “the contrary intention appears”.
49. Paragraph (a) relates to the situation where it is expressly provided that any of the rules in Part 2 of this Act do not apply to an Act or instrument, or where there is other express provision that is inconsistent with any of the rules in Part 2. For example, an Assembly Act or Welsh subordinate instrument might use a term that is defined in Schedule 1 to this Act, but give the term a different definition. In that case, paragraph (a) makes clear that the definition in Schedule 1 would not apply.
50. The express provision to the contrary will commonly be contained in the particular Assembly Act or Welsh subordinate instrument that is being considered, but it may sometimes be found in another piece of legislation. For example, it is possible that the operation of one of the default provisions in Part 2 in relation to a particular Act or instrument might be excluded by an express provision in another Act or Measure of the Assembly or in an Act of the UK Parliament.
51. Paragraph (b) relates to the situation where the context requires an Act or instrument to be interpreted or given effect in a different way from that set out in Part 2. For example, there may be cases where an Assembly Act or Welsh subordinate instrument uses a term defined in Schedule 1 to this Act without providing an alternative definition, but the way in which the term is used, or some other aspect of the context of the Act or instrument, indicates that the term must be intended to have a different meaning.
52. **Section 4(2)** provides that the exception in section 4(1) does not apply in relation to section 5 (equal status of texts of bilingual legislation).
53. **Section 4(3)** provides that paragraph (b) of the exception in section 4(1) does not apply to sections 10 (time of day), 28 (application of Welsh legislation to the Crown) and 33 (revival of law previously repealed or abolished). This means that the default provisions

*These notes refer to the Legislation (Wales) Act 2019
(c.4) which received Royal Assent on 10 September 2019*

in those three sections can only be excluded by express words to the contrary (and not by implication from the context).