

LEGISLATION (WALES) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Interpretation and Operation of Welsh Legislation

Section 33 – Repeals and revocations do not revive law previously repealed, revoked or abolished

165. **Section 33** overrides the common law rule that when an Act is repealed, it is treated as if it had never been enacted except in relation to things already done and finished under the Act.
166. This section deals with the situation where:
 - a. Act 1 is passed.
 - b. Act 2 subsequently repeals Act 1.
 - c. Act 3 then repeals Act 2.
167. At common law, the effect of Act 3 would be to revive Act 1. As this is rarely the desired outcome in practice, section 33 provides that in the above circumstances Act 3 does not revive Act 1.
168. **Section 33** also deals with the situation where Act 1 abolishes a rule of common law, and then Act 2 repeals Act 1. Again, the common law position would be that Act 2 revived the rule that had been abolished. Section 33 prevents the revival of the previously abolished rule.
169. **Section 33** operates in relation to repeals and revocations made both by Assembly Acts and by Welsh subordinate instruments. And given the definition of “enactment” in Schedule 1, it operates where an Assembly Act or Welsh subordinate instrument repeals or revokes any Assembly Act or Measure, Act of the UK Parliament, retained direct EU legislation, or any subordinate legislation made under any of those kinds of legislation.
170. **Section 33** is subject to section 4(1)(a) of the Act, but not to section 4(1)(b); so if the intention is that the rule in section 33 should not apply in relation to a particular repeal or revocation, express words will be needed to revive the earlier enactment or rule (rather than relying on the context).
171. **Section 33** is equivalent to section 15 of the 1978 Act. However, section 15 applies only to the repeal of legislation which repealed another enactment, and not to the repeal of legislation which abolished a common law rule. In the 1978 Act, the latter situation is instead treated as falling within section 16(1)(a), which has a similar effect but is subject to any “contrary intention” (whether express or implied).