

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

SCHEDULES

SCHEDULE 8,
Paragraph 16
: Interpretation Act 1978

Purpose and Effect

The Interpretation Act 1978 is concerned with the construction and operation of Acts of Parliament and subordinate legislation. This provision amends the Interpretation Act 1978 to regulate the relationship between an Act of the Scottish Parliament and an Act of the UK Parliament where either one operates on the other.

General

This amendment provides a new section 23A for the Interpretation Act 1978 which will provide for the interpretation of Westminster legislation in connection with Acts of the Scottish Parliament. It deals with those sections of the 1978 Act which contemplate one Act operating on another Act. They make provision about references to Acts of the Scottish Parliament in Acts of the UK Parliament and UK statutory instruments and about regulating certain effects of an Act of the Scottish Parliament which repeals or consolidates an Act of the UK Parliament, and vice versa.

In addition, the amendment inserts new definitions in Schedule 1 to the Act to provide that the terms “Act” and “Enactment” will not include Acts of the Scottish Parliament or instruments made under an ASP. This has the effect of providing a general rule, as a starting point, that in future Westminster legislation, references to Acts and enactments will not include ASPs and instruments under ASPs.

The Scottish Parliament is able to make its own legislative provision about the construction and operation of Acts of the Scottish Parliament and statutory instruments made under such Acts. Provision is made for these matters in the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 ([S.I. 1999/1379](#)) until the Scottish Parliament does so.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LR	3-Nov-98	253

Details of Provisions

Paragraph 16(1) states that the Interpretation Act 1978 shall be amended.

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Paragraph 16(2) inserts new sections after section 23 of the Interpretation Act.

New section 23A(2) and (3) provide that, in certain sections of the Interpretation Act 1978, “Act” includes an Act of the Scottish Parliament. These are sections 15 to 17 (repealing enactments) and section 18 (duplicated offences). The amendment will mean that the provisions in sections 15 (repeal of repeals), 16 (general savings) and 17 (repeal and re-enactment) apply both where a UK Act repeals a previous enactment and where an Act of the Scottish Parliament repeals a previous UK enactment. The subsections also provide that “Act” in section 18 (duplicated offences) includes an Act of the Scottish Parliament. This is to prevent an offender being liable to be punished under both an Act of the UK Parliament and an Act of the Scottish Parliament.

New section 23A(4) provides for the application of section 20, which makes provision about how an Act of the UK Parliament or a UK statutory instrument may describe or refer to another enactment. The amendment will provide that in section 20 a reference to an “enactment” includes an enactment comprised in an Act of the Scottish Parliament.

Paragraph 16(3) amends Schedule 1 of the 1978 Act to provide definitions of “Act” and “enactment” which will apply to future Acts of Parliament. These definitions exclude Acts of the Scottish Parliament and instruments made under them. This will ensure that future references in Westminster legislation to “Act” or “enactment” do not inadvertently include Scottish legislation.