Interpretation and Legislative Reform (Scotland) Act 2010

2010 asp 10

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 28th April 2010 and received Royal Assent on 3rd June 2010

An Act of the Scottish Parliament to make provision about the publication, interpretation and operation of Acts of the Scottish Parliament and instruments made under them; to make provision about the scrutiny of subordinate legislation by the Scottish Parliament; to make provision (including provision for the purposes of section 94(2)(b) of the Scotland Act 1998) about orders subject to special parliamentary procedure; to make provision about the laying of certain documents before the Scottish Parliament; and for connected purposes.

PART 1

INTERPRETATION

Modifications etc. (not altering text)
C1 Pt. 1 applied (15.4.2016) by Lobbying (Scotland) Act 2016 (asp 16), **ss. 48(4)**, 52(1)

Application of Part 1

1 Application of Part 1

(1) This Part applies to—
- (a) Acts of the Scottish Parliament the Bills for which receive Royal Assent on or after the day on which this Part comes into force,
- (b) Scottish instruments made on or after that day, and
- (c) this Act.

(2) This Part does not apply in so far as—
- (a) the Act or instrument provides otherwise, or
- (b) the context of the Act or instrument otherwise requires.

Status: *Point in time view as at 18/05/2017.*
Changes to legislation: *There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010. (See end of Document for details)*

(3) Subsection (2)(b) does not apply in relation to the application of section 20.

(4) In this Part, "Scottish instrument" means an instrument of a type mentioned in subsection (5) made under—
  (a) an Act of the Scottish Parliament (whenever passed), or
  (b) an Act of the Scottish Parliament and an Act of Parliament (in each case, whenever passed).

(5) The types of instrument are—
  (a) an Order in Council,
  (b) an order,
  (c) regulations,
  (d) rules (including an act of sederunt, an act of adjournal and other rules of court),
  (e) a scheme,
  (f) a warrant,
  (g) byelaws.

(6) References in this Part to an Act of the Scottish Parliament include references to a provision of an Act of the Scottish Parliament.

(7) References in this Part to a Scottish instrument include references to a provision of a Scottish instrument.

(8) The Scottish Ministers may by order modify subsection (5).

(9) An order under this section is subject to the affirmative procedure.

Commencement

2 Commencement of Acts of the Scottish Parliament

(1) Subsection (2) applies where no provision is made for the coming into force of an Act of the Scottish Parliament.

(2) The Act comes into force at the beginning of the day after the day on which the Bill for the Act receives Royal Assent.

3 Commencement of Acts of the Scottish Parliament and Scottish instruments: time

(1) Subsection (2) applies where an Act of the Scottish Parliament or a Scottish instrument provides for the Act or instrument to come into force on a particular day.

(2) The Act or instrument comes into force at the beginning of the day.

Powers

4 Exercise of powers before commencement of Act of the Scottish Parliament

(1) This section applies where an Act of the Scottish Parliament confers power to—
  (a) make a Scottish instrument,

(b) establish bodies corporate,
(c) make appointments,
(d) give notices or documents,
(e) prescribe forms, or
(f) do any other thing for the purposes of the Act.

(2) A power mentioned in subsection (1) may be exercised during the pre-commencement period if it is necessary or expedient to do so for the purpose of bringing the Act into force or giving full effect to the Act at or after the time when the provision conferring the power comes into force.

(3) The pre-commencement period, in relation to a power mentioned in that subsection, is the period beginning with the day after the day on which the Bill for the Act receives Royal Assent and ending immediately before the coming into force of the provision of the Act that confers the power.

(4) A power mentioned in subsection (1) may not be exercised so as to bring into force subordinate legislation or anything else before the provision conferring the power comes into force.

5 Power to appoint to an office

(1) If an Act of the Scottish Parliament confers power to appoint a person to an office, the power includes power—
(a) to determine the terms and conditions of appointment,
(b) to remove or suspend a person from the office,
(c) to reappoint a person to the office,
(d) to reinstate a person in the office,
(e) where subsection (2) applies, to appoint a person to the office in place of the last holder of the office.

(2) This subsection applies where—
(a) the office is vacant,
(b) the person holding the office is suspended from office, or
(c) the person holding the office is incapacitated in a way that affects the performance of the person in the office.

6 Power to revoke, amend and re-enact

(1) Subsection (2) applies where an Act of the Scottish Parliament confers power ("the principal power") to make a Scottish instrument.

(2) The principal power includes power ("the ancillary power") to revoke, amend or re-enact any Scottish instrument made by virtue of the principal power (whether or not amended or re-enacted under the ancillary power).

7 Carrying out of powers and duties more than once

(1) A power conferred by an Act of the Scottish Parliament or a Scottish instrument may be exercised from time to time.

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(2) A duty imposed by an Act of the Scottish Parliament or a Scottish instrument may be performed from time to time.

(3) The holder for the time being of an office—
- (a) may exercise a power conferred on the holder of the office by an Act of the Scottish Parliament or a Scottish instrument,
- (b) is to perform a duty imposed on the holder of the office by an Act of the Scottish Parliament or a Scottish instrument.

8 Additional powers on commencement by order

(1) Subsection (2) applies where an Act of the Scottish Parliament confers power on the Scottish Ministers to bring the Act into force on a day appointed by them by order.

(2) The power may be exercised so as to appoint different days for different purposes.

References to legislative provisions

9 References to Acts of the Scottish Parliament

(1) Subsection (2) applies where an Act of the Scottish Parliament or a Scottish instrument refers to—
- (a) an Act of the Scottish Parliament numbered in accordance with article 4 of the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379),
- (b) an Act of the Scottish Parliament by the calendar year, prefix and number written on that other Act by virtue of section 38(6), or
- (c) a section or other provision or group of provisions of an Act of the Scottish Parliament by number or letter.

(2) The reference is to be read as referring to the Acts of the Scottish Parliament printed by the Queen's Printer for Scotland by virtue of section 92(1) of the Scotland Act 1998 (c. 46).

(3) An Act of the Scottish Parliament may continue to be referred to by the short title conferred on it despite the repeal of the Act.

10 References to Acts of Parliament

(1) Subsection (2) applies where an Act of the Scottish Parliament or a Scottish instrument refers to—
- (a) an Act of Parliament by year, statute, session or chapter, or
- (b) a section or other provision or group of provisions of an Act of Parliament by number or letter.

(2) The reference is to be read as referring—
- (a) in the case of Acts of Parliament included in any revised edition of the statutes printed by authority, to that edition,
- (b) in the case of Acts of Parliament not so included but included in the edition prepared under the direction of the Record Commission, to that edition,

(c) in any other case, to the Acts of Parliament printed by the Queen's Printer of Acts of Parliament, or under the superintendence or authority of Her Majesty's Stationery Office.

11 References to Acts of the Parliaments of Scotland

(1) Subsection (2) applies where an Act of the Scottish Parliament or a Scottish instrument refers to—

(a) an Act of the Parliaments of Scotland passed before or in 1707 (an "old Scots Act") by year, statute, session or chapter, or

(b) a section or other provision or group of provisions of an old Scots Act by number or letter.

(2) The reference is to be read as referring—

(a) in the case of old Scots Acts included in any revised edition of the statutes printed by authority, to that edition,

(b) in the case of old Scots Acts not so included but included in the edition prepared under the direction of the Record Commission, to that edition,

(c) in any other case, to the old Scots Acts printed by the Queen's Printer of Acts of Parliament, or under the superintendence or authority of Her Majesty's Stationery Office.

12 References to EU instruments

(1) Subsection (2) applies where—

(a) an Act of the Scottish Parliament or a Scottish instrument refers to an EU instrument, and

(b) before the day on which—

(i) the Act receives Royal Assent, or

(ii) the Scottish instrument is made,

the EU instrument is amended, extended or applied by another EU instrument.

(2) The reference is a reference to the EU instrument as amended, extended or applied by that other EU instrument (whether or not that other EU instrument has come into force).

13 References to portions of legislative provisions

(1) Subsection (2) applies where an Act of the Scottish Parliament or a Scottish instrument describes or refers to a portion of an enactment by referring to words, sections or other parts from or to which (or from and to which) the portion extends.

(2) The portion described or referred to includes the words, sections or other parts referred to.

14 References to other legislative provisions

(1) Subsection (2) applies where—

(a) an Act of the Scottish Parliament or a Scottish instrument refers to an enactment, and

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(b) before, on or after the coming into force of the Act or instrument the enactment is amended, extended or applied by another enactment.

(2) The reference is a reference to the enactment as amended, extended or applied by the other enactment (whether or not that other enactment has come into force).

Repeals

15 Effect of repeal generally

(1) This section applies where an Act of the Scottish Parliament or a Scottish instrument—
(a) repeals an Act of the Scottish Parliament, or
(b) revokes a Scottish instrument.

(2) The repeal or revocation does not affect—
(a) the validity, invalidity, effect or consequences of anything done or suffered under the repealed Act or revoked instrument,
(b) an existing right, interest, title, immunity, privilege, obligation or liability acquired, accrued or incurred under that Act or instrument,
(c) an existing status or capacity acquired under that Act or instrument,
(d) an amendment of an enactment made by the repealed Act or revoked instrument,
(e) the previous operation of the repealed Act or revoked instrument or anything done or suffered under the Act or instrument.

(3) The repeal or revocation does not revive—
(a) an Act of the Scottish Parliament that has been repealed,
(b) a Scottish instrument that has been revoked,
(c) a rule of law that has been abolished,
(d) any other thing that is not in force or existing at the time at which the repeal or revocation takes effect.

16 Effect of repeal on existing rights

(1) This section applies where an Act of the Scottish Parliament or a Scottish instrument—
(a) repeals an Act of the Scottish Parliament, or
(b) revokes a Scottish instrument.

(2) The repeal or revocation does not affect any investigation, legal proceeding or remedy that relates to an existing right.

(3) Any investigation, legal proceeding or remedy that relates to an existing right may be instituted, continued or enforced as if the Act had not been repealed or, as the case may be, the instrument had not been revoked.

(4) In this section "existing right" means a right, interest, title, immunity, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or revoked instrument.

17 Effect of repeal on existing liability to certain penalties

(1) This section applies where an Act of the Scottish Parliament or a Scottish instrument—
- (a) repeals an Act of the Scottish Parliament, or
- (b) revokes a Scottish instrument.

(2) The repeal or revocation does not affect a liability to a penalty for—
- (a) an offence committed before the repeal or revocation, or
- (b) a breach of the repealed Act or revoked instrument which occurred before the repeal or, as the case may be, revocation.

(3) Despite the repeal or revocation, the repealed Act or revoked instrument continues to have effect as if it had not been repealed or revoked for the purpose of—
- (a) investigating the offence or breach,
- (b) bringing or completing proceedings for the offence or breach,
- (c) imposing a penalty, forfeiture or punishment for the offence or breach.

18 Temporary Acts of the Scottish Parliament and Scottish instruments

(1) Sections 15 to 17 apply to the expiry of a temporary Act of the Scottish Parliament as if the temporary Act were repealed by an Act of the Scottish Parliament.

(2) Sections 15 to 17 apply to the expiry of a temporary Scottish instrument as if the temporary instrument were revoked by an Act of the Scottish Parliament.

19 Effect of repeal and re-enactment

(1) This section applies where an Act of the Scottish Parliament or a Scottish instrument—
- (a) repeals an Act of the Scottish Parliament or revokes a Scottish instrument, and
- (b) re-enacts the repealed Act or revoked instrument (with or without modification).

(2) Except as mentioned in subsection (3), the repeal or revocation does not affect any other Act of the Scottish Parliament or Scottish instrument in so far as that other Act or instrument applies, incorporates or refers to the repealed Act or revoked instrument.

(3) A reference in another Act of the Scottish Parliament or Scottish instrument to the repealed Act or revoked instrument is to be construed as a reference to the re-enacted Act or instrument.

(4) In so far as a Scottish instrument made, or having effect as if made, under the repealed Act or revoked instrument could have been made under the re-enacted Act or instrument, it is to have effect as if made under the re-enacted Act or instrument.

(5) In so far as anything done, or having effect as if done, under the repealed Act or revoked instrument could have been done under the re-enacted Act or instrument, it is to have effect as if done under the re-enacted Act or instrument.

Modifications etc. (not altering text)

C2 S. 19(3)-(5) excluded (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), **ss. 235(5)**, 237(2) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

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Application of legislation to the Crown

20 Application of Acts and instruments to the Crown

(1) An Act of the Scottish Parliament or a Scottish instrument binds the Crown except in so far as the Act or instrument provides otherwise.

(2) Any rule of law under which the Crown is by necessary implication bound by an Act of the Scottish Parliament or a Scottish instrument is abolished.

Forms

21 Forms

Where a form is prescribed in or under an Act of the Scottish Parliament, a form that differs from the prescribed form is not invalid unless the difference materially affects the effect of the form or is misleading.

Meaning of words and expressions used in legislation

22 Number

In an Act of the Scottish Parliament or a Scottish instrument—

(a) words in the singular include the plural,

(b) words in the plural include the singular.

23 References to time of day

(1) An expression of time that occurs in an Act of the Scottish Parliament or a Scottish instrument is to be read as a reference to Greenwich mean time.

(2) Subsection (1) is subject to section 3 of the Summer Time Act 1972 (c. 6) (construction of references to points of time during the period of summer time).

24 Meaning of words and expressions used in instruments

A word or expression used in a Scottish instrument has the same meaning as it has in the Act of the Scottish Parliament by virtue of which the instrument is made.

25 Definitions

(1) In an Act of the Scottish Parliament or a Scottish instrument words and expressions listed in schedule 1 are to be construed according to that schedule.

(2) The Scottish Ministers may by order modify that schedule.

(3) An order under this section is subject to the affirmative procedure.

26 Service of documents

(1) This section applies where an Act of the Scottish Parliament or a Scottish instrument authorises or requires a document to be served on a person (whether the expression "serve", "give", "send" or any other expression is used).

(2) The document may be served on the person—
- (a) by being delivered personally to the person,
- (b) by being sent to the proper address of the person—
  - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000 (c. 26)), or
  - (ii) by a postal service which provides for the delivery of the document to be recorded, or
- (c) where subsection (3) applies, by being sent to the person using electronic communications.

(3) This subsection applies where, before the document is served, the person authorised or required to serve the document and the person on whom it is to be served agree in writing that the document may be sent to the person by being transmitted to an electronic address and in an electronic form specified by the person for the purpose.

(4) For the purposes of subsection (2)(b), the proper address of a person is—
- (a) in the case of a body corporate, the address of the registered or principal office of the body,
- (b) in the case of a partnership, the address of the principal office of the partnership,
- (c) in any other case, the last known address of the person.

(5) Where a document is served as mentioned in subsection (2)(b) on an address in the United Kingdom it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.

(6) Where a document is served as mentioned in subsection (2)(c) it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.

PART 2

SCOTTISH STATUTORY INSTRUMENTS

Definition

27 Definition of "Scottish statutory instrument"

(1) The document by which a function to which this section applies is exercised is to be known as a "Scottish statutory instrument".

(2) This section applies to—
- (a) a function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving an order, regulations or rules under an enactment,
- (b) a function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving other subordinate legislation under an

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enactment if the enactment conferring the function or any other enactment provides for the function to be exercisable by Scottish statutory instrument,

(c) a function of Her Majesty of making an Order in Council by virtue of—

(i) an Act of the Scottish Parliament,

(ii) a Scottish instrument, or

(iii) any other enactment, so far as the function is exercisable within devolved competence,

(d) a function of the High Court of Justiciary of making an act of adjournal under an enactment,

(e) a function of the Court of Session of making an act of sederunt under an enactment, and

(f) a function of any other person of making, confirming or approving subordinate legislation if the enactment conferring the function or any other enactment provides for the function to be exercisable by Scottish statutory instrument.

(3) Despite subsection (2), this section does not apply to—

(a) a function falling within subsection (2)(a), (c), (d) or (e) where the enactment conferring the function or any other enactment provides that the function is not to be exercisable by Scottish statutory instrument,

(b) a function of agreeing, consenting to or otherwise approving subordinate legislation made by a Minister of the Crown,

(c) a function which is exercised jointly with a Minister of the Crown, or

(d) a function of making an Order in Council which is, or a draft of which is, to be laid before each House of Parliament as well as the Scottish Parliament.

(4) The reference in subsection (2)(c)(iii) to a function's being exercisable within devolved competence is to be construed in accordance with section 54 of the Scotland Act 1998 (c. 46).

(5) Section 10 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (c. 19) (acts of adjournal and acts of sederunt to be statutory instruments) is repealed.

(6) Schedule 2 makes transitional and consequential provision.

Commencement Information

I1 S. 27(1)(2)(a)(3) in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(a)** (with art. 5)

I2 S. 27(1)(2)(a)(3) in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

I3 S. 27(2)(b)-(f)s. 27(4)-(6) in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Parliamentary scrutiny

28 Instruments subject to the negative procedure

(1) This section applies where, by virtue of an enactment, devolved subordinate legislation is subject to the negative procedure.

(2) The Scottish statutory instrument containing the subordinate legislation must be laid before the Scottish Parliament as soon as practicable after the instrument is made (and in any event at least 28 days before the instrument comes into force).

(3) The Parliament may, before the expiry of the period of 40 days beginning with the date on which the instrument is laid before it, resolve that the instrument be annulled.

(4) Where the Parliament makes such a resolution in relation to an instrument—
- (a) so far as the instrument is not in force on the date of the resolution, the instrument is not to come into force after that date (despite any provision in it for its coming into force),
- (b) so far as the instrument is in force on that date, nothing further is to be done or continued under, or in reliance on, the instrument after that date.

(5) Where the Parliament makes such a resolution in relation to an instrument which contains an Order in Council or an Order of Council, Her Majesty may by Order in Council revoke the instrument.

(6) Where the Parliament makes such a resolution in relation to any other instrument, the responsible authority must by order revoke the instrument.

(7) Any such resolution or revocation does not affect—
- (a) the validity of anything previously done under the instrument, or
- (b) the making of a new Scottish statutory instrument.

(8) In calculating the period of 28 days mentioned in subsection (2), or the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which the Scottish Parliament is dissolved or in recess for more than four days.

(9) In subsection (6), "responsible authority", in relation to a Scottish statutory instrument, means—
- (a) the Scottish Ministers in a case where the instrument is made, confirmed or approved by the Scottish Ministers, the First Minister or the Lord Advocate, and
- (b) in any other case, the person who made, confirmed or approved the instrument.

(10) An order under subsection (5) or (6) is to be made by Scottish statutory instrument.

Modifications etc. (not altering text)

C3 S. 28 applied (with modifications) by 2002 c. 17, s. 38(3C) (as inserted (27.3.2012 for specified purposes, 16.3.2015 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 224(3)**, 306(1)(d)(4); S.I. 2015/409, art. 2)

C4 S. 28 applied (with modifications) (27.3.2012) by Health and Social Care Act 2012 (c. 7), **ss. 304(7)**, 306(1)(c)

C5 S. 28 applied (with modifications) (12.4.2016) by The Pharmacy (Premises Standards, Information Obligations, etc.) Order 2016 (S.I. 2016/372), arts. 1(2), **4(5)(b)**

Commencement Information

I4 S. 28 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

I5 S. 28 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

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29 Instruments subject to the affirmative procedure

(1) This section applies where, by virtue of an enactment, devolved subordinate legislation is subject to the affirmative procedure.

(2) The subordinate legislation is not to be made unless a draft of the Scottish statutory instrument containing it is laid before, and approved by resolution of, the Scottish Parliament.

(3) If the requirements of subsection (2) are not complied with in relation to any subordinate legislation to which this section applies, the purported subordinate legislation has no effect.

(4) Subsection (3) is without prejudice to section 32(3).

Commencement Information

I6 S. 29 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

I7 S. 29 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

30 Other instruments laid before the Parliament

(1) This section applies where devolved subordinate legislation is not, by virtue of an enactment, subject to the negative procedure or the affirmative procedure.

(2) The Scottish statutory instrument containing the subordinate legislation must be laid before the Scottish Parliament as soon as practicable after the legislation is made (and in any event before the legislation is due to come into force).

(3) References in subsections (1) and (2) to devolved subordinate legislation do not include references to subordinate legislation made under an enactment mentioned in subsection (4).

(4) Those enactments are—

(a) the Harbours Act 1964 (c. 40),

(b) the Water (Scotland) Act 1980 (c. 45),

(c) the Road Traffic Regulation Act 1984 (c. 27),

(d) the Roads (Scotland) Act 1984 (c. 54),

(e) section 1, 2 or 8 of the Salmon Act 1986 (c. 62),

(f) the Natural Heritage (Scotland) Act 1991 (c. 28),

[[F1](fa) section 155(2)(a) of the Political Parties, Elections and Referendums Act 2000 (c.41),**]**

(g) section 33, 34 or 35 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15),

(h) article 53 of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913),

(i) the Transport and Works (Scotland) Act 2007 (asp 8).

[[F2](j) section 216(4) of the Equality Act 2010 (c.15).**]**

(5) The Scottish Ministers may by order modify subsection (4).

(6) An order under this section is subject to the affirmative procedure.

Textual Amendments

F1 S. 30(4)(fa) inserted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 7(14)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(e)

F2 S. 30(4)(j) inserted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 38(10)**, 72(7)

Modifications etc. (not altering text)

C6 S. 30 excluded (6.4.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Savings and Transitional Provisions) Order 2011 (S.S.I. 2011/88), arts. 1, **5**

Commencement Information

I8 S. 30 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

I9 S. 30 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

31 Failure to lay instruments in accordance with section 28(2) or 30(2)

(1) This section applies where section 28 or 30 applies in relation to devolved subordinate legislation.

(2) Failure to lay the Scottish statutory instrument containing the legislation in accordance with the laying requirements does not affect the validity of the instrument.

(3) Where the instrument is laid before the Scottish Parliament, but not in accordance with the laying requirements, the responsible authority must explain to the Presiding Officer why the laying requirements have not been complied with.

(4) The explanation is to be given in writing as soon as practicable after the instrument is laid before the Parliament.

(5) In this section, "the laying requirements" are—

(a) in the case where section 28 applies, the requirements of subsection (2) of that section,

(b) in the case where section 30 applies, the requirements of subsection (2) of that section.

(6) In subsection (3), "responsible authority", in relation to a Scottish statutory instrument, means—

(a) the Scottish Ministers in a case where the instrument is—

(i) made, confirmed or approved by the Scottish Ministers, the First Minister or the Lord Advocate,

(ii) an Order in Council, or

(iii) an Order of Council, and

(b) in any other case, the person who made, confirmed or approved the instrument.

Modifications etc. (not altering text)

C7 S. 31 applied (with modifications) by 2002 c. 17, s. 38(3C) (as inserted (27.3.2012 for specified purposes, 16.3.2015 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 224(3)**, 306(1)(d)(4); S.I. 2015/409, art. 2)

C8 S. 31 applied (with modifications) (27.3.2012) by Health and Social Care Act 2012 (c. 7), **ss. 304(7)**, 306(1)(c)

C9 S. 31 applied (with modifications) (12.4.2016) by The Pharmacy (Premises Standards, Information Obligations, etc.) Order 2016 (S.I. 2016/372), arts. 1(2), **4(5)(b)**

Commencement Information

I10 S. 31 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

I11 S. 31 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

32 Laying of Scottish statutory instruments before the Scottish Parliament

(1) This section applies where an enactment authorises or requires the laying of a Scottish statutory instrument, or a draft of such an instrument, before the Scottish Parliament.

(2) Unless the contrary intention appears, the reference to the laying of the instrument, or draft instrument, is to be construed as a reference to the taking of such action as is specified in standing orders of the Parliament as constituting the laying of a Scottish statutory instrument, or a draft of such an instrument, before the Parliament.

(3) Failure to lay an instrument, or draft instrument, in accordance with the enactment does not affect the validity of the instrument.

Modifications etc. (not altering text)

C10 S. 32 applied by 2002 c. 17, s. 38(3D) (as inserted (27.3.2012 for specified purposes, 16.3.2015 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 224(3)**, 306(1)(d)(4); S.I. 2015/409, art. 2)

C11 S. 32 applied (27.3.2012) by Health and Social Care Act 2012 (c. 7), **ss. 304(8)**, 306(1)(c)

Commencement Information

I12 S. 32 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

I13 S. 32 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

Combination of certain powers

33 Combination of certain powers

(1) This section applies where—

(a) a power of a person to make devolved subordinate legislation is subject to the affirmative procedure,

(b) a power of a person to make devolved subordinate legislation is subject to the negative procedure,

(c) section 30 applies to a power of a person to make devolved subordinate legislation, or

(d) a power of a person to make devolved subordinate legislation does not fall within any of paragraphs (a) to (c).

(2) If the person considers that it is desirable to exercise two or more of the powers together, the powers may be exercised together and by the same Scottish statutory instrument.

(3) If the powers exercised together include a power of the type mentioned in paragraph (a) of subsection (1), the devolved subordinate legislation contained in the instrument is subject to the affirmative procedure.

(4) If the powers exercised together do not include a power of the type mentioned in paragraph (a) of subsection (1) but include a power of the type mentioned in paragraph (b) of that subsection, the devolved subordinate legislation contained in the instrument is subject to the negative procedure.

(5) If the powers exercised together do not include a power of the type mentioned in paragraph (a) or (b) of subsection (1), section 30 applies to the devolved subordinate legislation contained in the instrument.

(6) Any other requirements relating to the exercise of one of the powers continue to apply only in relation to the exercise of that power.

(7) References in this section to devolved subordinate legislation do not include references to subordinate legislation in relation to which an enactment provides, or has the effect of providing, that the subordinate legislation, or the Scottish statutory instrument containing it, cannot remain in force unless it is approved by resolution of the Scottish Parliament.

Commencement Information
I14 S. 33 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Further provision about procedures

34 Power to change procedure to which subordinate legislation is subject

(1) Subsection (2) applies if—

(a) in relation to a function of making, confirming or approving devolved subordinate legislation which is subject to the negative procedure, the Scottish Parliament resolves that the subordinate legislation should instead be subject to the affirmative procedure,

(b) in relation to a function of making, confirming or approving devolved subordinate legislation which is subject to the affirmative procedure, the Parliament resolves that the subordinate legislation should instead be subject to the negative procedure, or

(c) in relation to a function of making, confirming or approving devolved subordinate legislation to which section 30 applies, the Scottish Parliament resolves that the subordinate legislation should instead be subject to the negative or the affirmative procedure.

(2) The Scottish Ministers may by order make such modifications of any enactment as are necessary for the purpose of giving effect to the resolution.

(3) An order under this section is subject to the affirmative procedure.

Status: *Point in time view as at 18/05/2017.*
Changes to legislation: *There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010. (See end of Document for details)*

Commencement Information
I15 S. 34 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

35 Procedures prescribed in pre-commencement enactments

Schedule 3 modifies procedures prescribed in pre-commencement enactments.

Commencement Information
I16 S. 35 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Statutory instruments subject to procedure in the Scottish Parliament

36 Statutory instruments subject to procedure in the Scottish Parliament

Schedule 4 makes provision for the application of certain provisions of this Part in relation to statutory instruments, and draft statutory instruments, which are subject to procedure in the Scottish Parliament.

Commencement Information
I17 S. 36 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Interpretation of Part 2

37 Interpretation of Part 2

In this Part—

"devolved subordinate legislation" means subordinate legislation (other than special procedure orders) which is to be made by Scottish statutory instrument,

"enactment" includes any enactment comprised in this Act,

"special procedure order" means an order in relation to which Part 4 applies.

Commencement Information
I18 S. 37 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(c)** (with art. 5)
I19 S. 37 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

PART 3

PUBLICATION OF ACTS AND INSTRUMENTS

Acts of the Scottish Parliament

38 Official prints of Acts of the Scottish Parliament

(1) For each calendar year, Acts of the Scottish Parliament having their Royal Assent date in that year are to be numbered consecutively, with the prefix "asp" (starting with "asp 1").

(2) Acts of the Scottish Parliament are to be numbered in chronological order by reference to their Royal Assent dates.

(3) If two or more Acts of the Scottish Parliament have the same Royal Assent date, their chronological order is to be determined in accordance with subsections (4) and (5).

(4) If separate Letters Patent are recorded as mentioned in section 28(3) of the Scotland Act 1998 (c. 46) in relation to each Bill, the order is the order in which the Letters Patent are so recorded.

(5) If the same Letters Patent are so recorded in relation to two or more Bills the order is the order in which the Bills are mentioned in the Letters Patent.

(6) The Clerk of the Scottish Parliament is to write on the copy of each Act of the Scottish Parliament on which the Clerk writes the Royal Assent date (as required by section 28(4) of the Scotland Act 1998 (c. 46)) the calendar year, prefix and number of the Act.

(7) The calendar year, prefix and number written on an Act in pursuance of subsection (6) form part of the Act.

(8) The copy of the Act on which the Clerk writes the Royal Assent date, the calendar year, prefix and number is to be known as the "official print" of the Act.

(9) In this section "Royal Assent date", in relation to an Act of the Scottish Parliament, means the date on which the Bill for the Act receives Royal Assent.

39 Publication of official prints

(1) As soon as practicable after complying with the requirements of section 38(6), the Clerk of the Scottish Parliament must ensure that the Queen's Printer receives a certified copy of the Act (a "certified Act").

(2) As soon as practicable after receiving a certified Act, the Queen's Printer—

(a) must, in pursuance of the functions imposed by section 92(1)(a) of the Scotland Act 1998 (c. 46), print copies of the certified Act and make them available for sale,

(b) may make other arrangements for publication of the certified Act.

(3) In this section "certified copy" means a copy certified by the Clerk as being a true copy.

Status: *Point in time view as at 18/05/2017.*
Changes to legislation: *There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010. (See end of Document for details)*

40 Preservation of official prints

(1) The Clerk of the Scottish Parliament must ensure that the Keeper of the Records of Scotland receives the official print of each Act of the Scottish Parliament.

(2) The Keeper must ensure that official prints of Acts received by the Keeper are preserved.

Scottish statutory instruments

41 Queen's Printer to publish instruments

(1) The responsible authority must ensure that the Queen's Printer receives a certified copy of each Scottish statutory instrument as soon as practicable after the instrument is made.

(2) As soon as practicable after receiving a certified copy of an instrument, the Queen's Printer must publish copies of the instrument in accordance with regulations under section 42.

(3) In proceedings against a person for an offence consisting of a contravention of a Scottish statutory instrument, it is a defence to prove that, at the date of the alleged contravention, the instrument had not been published by the Queen's Printer.

(4) The defence mentioned in subsection (3) is not available if it is proved that reasonable steps had been taken before that date by or on behalf of the responsible authority to bring the purport of the instrument to the notice of—
   (a) the public,
   (b) persons likely to be affected by it, or
   (c) the person charged.

(5) Subsections (3) and (4) do not affect any enactment or rule of law relating to the time at which any Scottish statutory instrument comes into force.

(6) In this section "certified copy" means a copy certified by the responsible authority as being a true copy.

Modifications etc. (not altering text)

C12 S. 41(2)-(5) applied (with modifications) (6.4.2011) by 2009 asp 1, s. 3(5)(6) (as substituted by The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential Provisions) Order 2011 (S.S.I. 2011/196), arts. 1, **3**)

C13 S. 41(2)-(5) applied (with modifications) (6.4.2011) by 2006 asp 12, Sch. para. 10(3)(4) (as substituted by The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential Provisions) Order 2011 (S.S.I. 2011/196), arts. 1, **2**)

C14 S. 41(2)-(5) applied (with modifications) (15.4.2016) by Lobbying (Scotland) Act 2016 (asp 16), **s. 48(5)-(7)**, 52(1)

42 Publication, numbering and citation: regulations

(1) The Scottish Ministers must by regulations make provision for or in connection with the publication, numbering and citation of Scottish statutory instruments.

(2) The regulations must include provision requiring instruments to be published on a website or by other electronic means.

(3) The regulations may in particular include provision about—

(a) the form of instruments,

(b) the manner in which instruments are to be published (in addition to that mentioned in subsection (2)),

(c) the classification of instruments,

(d) the publication of lists and annual editions of instruments (including the manner of publication),

(e) the evidential status of lists and annual editions of instruments and entries in them,

(f) charging for the provision of—

(i) copies of instruments, or

(ii) copies of lists or annual editions of instruments, and

(g) the conferral of functions, in connection with any matter provided for in the regulations, on—

(i) the Queen's Printer,

(ii) the Presiding Officer,

(iii) the responsible authority, or

(iv) any other person.

(4) Regulations under this section are subject to the affirmative procedure.

43 Preservation of Scottish statutory instruments

(1) The responsible authority must ensure that the Keeper of the Records of Scotland receives each Scottish statutory instrument that is signed by or on behalf of the responsible authority.

(2) The Keeper must ensure that Scottish statutory instruments received by virtue of subsection (1) are preserved.

44 Publication in the Gazettes

(1) This section applies where an enactment requires, or has the effect of requiring, a Scottish statutory instrument to be published or notified in the London, Edinburgh or Belfast Gazette.

(2) The enactment is taken to be complied with if a notice is published in the Gazette or Gazettes to which the requirement relates—

(a) stating that the instrument has been made, and

(b) providing information about how copies of the instrument may be obtained.

45 No duty to print Scottish statutory instruments

In section 92(1)(a) of the Scotland Act 1998 (c. 46) (functions of Queen's Printer for Scotland), after “legislation” insert “ (other than Scottish statutory instruments) ”.

46 Queen's Printer: delegation of functions

(1) A function of the Queen's Printer under this Part, or conferred by regulations under section 42, may be carried out on the Queen's Printer's behalf by a person authorised by the Queen's Printer.

(2) Where a function is carried out by virtue of subsection (1)—

(a) the Queen's Printer remains responsible for the carrying out of the function, and

(b) anything done by the person authorised under that subsection in pursuance of the authorisation is to be treated as done by the Queen's Printer.

Interpretation of Part 3

47 Interpretation of Part 3

In this Part—

"enactment" includes any enactment comprised in this Act,

"Queen's Printer" means the Queen's Printer for Scotland,

"responsible authority" has the meaning given by section 31(6).

PART 4

ORDERS SUBJECT TO SPECIAL PARLIAMENTARY PROCEDURE

Modifications etc. (not altering text)

C15 Pt. 4 excluded (6.4.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Savings and Transitional Provisions) Order 2011 (S.S.I. 2011/88), arts. 1, **3(1)(a)**

48 Application of Part 4

(1) This Part applies in relation to an order which—

(a) the Scottish Ministers have power to make, confirm or approve, and

(b) is, by virtue of an enactment, subject to special parliamentary procedure.

(2) Such an order is referred to in this Part as a "special procedure order".

(3) For the purposes of paragraph (b) of section 94(2) of the Scotland Act 1998 (c. 46), this Part is to be taken to provide the special procedure referred to in that paragraph.

(4) In subsection (1), "order" includes scheme, certificate or byelaw.

Commencement Information

I20 S. 48 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

49 Notice of special procedure orders

(1) Before a special procedure order is made, confirmed or approved by the Scottish Ministers—

(a) the requirements of the empowering enactment with respect to the service of notices must be complied with, and

(b) notice in accordance with subsection (2) must be given by advertisement—

(i) in the Edinburgh Gazette, and

(ii) in the case of a special procedure order relating to a particular area, in at least one newspaper circulating in that area.

(2) That notice is—

(a) in the case of a special procedure order to be made by the Scottish Ministers on the application of any person, notice by the applicant of the purport of the application,

(b) in the case of a special procedure order to be confirmed or approved by the Scottish Ministers on the application of any person, notice by the applicant of the order as submitted for confirmation or approval (as the case may be),

(c) in the case of a special procedure order to be made by the Scottish Ministers otherwise than on the application of any person, notice by the Scottish Ministers of the order as proposed to be made.

(3) The notice must specify the time by which and the manner in which objections may be made to the application or, as the case may be, to the proposed order.

(4) For the purposes of this section, notice of a special procedure order is sufficient if it—

(a) sets out the purport of the order, and

(b) specifies a place where copies can be obtained free of charge at all reasonable hours.

Commencement Information

I21 S. 49 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

50 Orders to which objections are made

(1) This section applies where, in relation to a special procedure order—

(a) a relevant objection is made, and

(b) the objection is not withdrawn.

(2) The order may not take effect unless it is confirmed, whether with or without amendments, by an Act of the Scottish Parliament.

(3) In subsection (1) and section 51(1), a "relevant objection" is an objection which—

(a) if made in pursuance of a notice under section 49(1)(b), is made in accordance with the requirements of the notice,

(b) if made in pursuance of the empowering enactment, is made in accordance with the provisions of the enactment, and

(c) is not disregarded under subsection (4).

(4) An objection may be disregarded if—

(a) it is, in the opinion of the Scottish Ministers, frivolous or vexatious, or

(b) it relates to a matter that can be dealt with by an arbiter by whom compensation may be assessed.

(5) The Bill for an Act to confirm the order—

(a) may be introduced—

(i) by a member of the Scottish Executive, or

(ii) in the case of an order which is to be made, confirmed or approved by the Scottish Ministers on the application of any person, by the applicant,

(b) must set out the order, and

(c) in the absence of any special provision in standing orders of the Parliament concerning the procedure for such a Bill, is to be treated after introduction as a Private Bill for the purposes of those standing orders.

Commencement Information

I22 S. 50 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

51 Orders to which no objections are made

(1) This section applies where, in relation to a special procedure order—

(a) no relevant objection is made, or

(b) a relevant objection is made and subsequently withdrawn.

(2) The Scottish Ministers may, after the order is made, confirmed or approved, lay the order before the Scottish Parliament.

(3) If, before the expiry of the period of 40 days beginning with the day on which a copy of the order is laid before it, the Scottish Parliament resolves that the order be annulled, the order becomes void and no further proceedings may be taken in respect of it.

(4) If no resolution is made, the order comes into operation—

(a) on the day on which the period of 40 days mentioned in subsection (3) expires, or

(b) on such later day as may be specified in the order.

(5) Subsection (3) is without prejudice to the laying before the Parliament of a new special procedure order.

(6) In calculating the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which the Parliament is dissolved or in recess for more than 4 days.

Commencement Information

I23 S. 51 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

52 Statement of objections

(1) Subsection (2) applies where—

(a) a Bill for an Act of the Scottish Parliament to confirm a special procedure order is introduced in the Scottish Parliament, or

(b) a special procedure order is laid before the Scottish Parliament.

(2) The Scottish Ministers must, at the same time as the Bill is introduced or, as the case may be, the order is laid, lay before the Parliament a statement specifying—

(a) any objections which were not withdrawn, and

(b) any objections which were disregarded under section 50(4).

Commencement Information

I24 S. 52 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

53 Interpretation of Part 4

In this Part, "empowering enactment", in relation to a special procedure order, includes any enactment other than this Act which has the effect of requiring the service of notices in connection with the order.

Commencement Information

I25 S. 53 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(b)**

PART 5

LAYING OF DOCUMENTS OTHER THAN SCOTTISH STATUTORY INSTRUMENTS

54 Laying of certain documents before the Scottish Parliament

(1) This section applies where an enactment authorises or requires the laying of a document (other than a Scottish statutory instrument or a statutory instrument), or a draft of such a document, before the Scottish Parliament.

(2) Unless the contrary intention appears, the reference to the laying of the document, or draft document, is to be construed as a reference to the taking of such action as is specified in standing orders of the Parliament as constituting the laying of such a document, or draft of such a document, before the Parliament.

(3) Failure to lay a document, or draft document, in accordance with the enactment does not affect the validity of the document.

Commencement Information

I26 S. 54 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(c)**

Status: *Point in time view as at 18/05/2017.*
Changes to legislation: *There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010. (See end of Document for details)*

PART 6

MISCELLANEOUS AND GENERAL

55 Consequential revocation of transitional Orders

(1) The day appointed for the purposes of article 8 of the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379) as the day on which the Order ceases to have effect is the day on which Part 1 comes into force.

(2) Despite its ceasing to have effect on the day appointed by subsection (1), the Order is to continue to apply on and after that day as it applied before that day in relation to—
  (a) Acts of the Scottish Parliament the Bills for which received Royal Assent before that day,
  (b) Orders in Council, orders, rules, regulations, schemes, warrants, byelaws and other instruments made under an Act of the Scottish Parliament before that day, and
  (c) deeds, documents and other instruments made before that day.

(3) Articles 1 to 3 and 4(6) of the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (S.I. 1999/1096) are revoked.

(4) The day appointed for the purposes of article 4(6) of the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (S.I. 1999/1096) as the day on which articles 4(1) to (5) and 5 to 15 of the Order cease to have effect is the day on which Part 2 comes into force.

(5) The day appointed for the purposes of article 2 of the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders subject to Special Parliamentary Procedure) Order 1999 (S.I. 1999/1593) as the day on which that Order ceases to have effect is the day on which Part 4 comes into force.

Commencement Information
I27 S. 55 partly in force; s. 55(1)(2)(4)(5) in force at 4.6.2010 see s. 58(2)(3)
I28 S. 55(3) in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(d)**

56 Orders

The power to make an order under any provision of this Act (other than section 28) includes power to make such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.

57 Ancillary provision

(1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purpose of, in consequence of, or for giving full effect to, any provision of this Act.

(2) The Scottish Ministers may by order make such provision as they consider necessary or expedient for transitional, transitory or saving purposes in connection with the coming into force of any provision of this Act.

(3) An order under subsection (1) or (2) may modify any enactment.

(4) An order under subsection (1) is subject to the affirmative procedure.

(5) An order under subsection (2) is subject to the negative procedure.

58 Short title and commencement

(1) This Act may be cited as the Interpretation and Legislative Reform (Scotland) Act 2010.

(2) Except as mentioned in subsection (3), this Act comes into force at the beginning of the day after the day on which the Bill for the Act receives Royal Assent.

(3) Parts 2, 4 and 5, and, in Part 6, section 55(3) come into force on such day as the Scottish Ministers may by order made by statutory instrument appoint.

Status: *Point in time view as at 18/05/2017.*
Changes to legislation: *There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010. (See end of Document for details)*

SCHEDULE 1

(introduced by section 25(1))

DEFINITIONS OF WORDS AND EXPRESSIONS

"Act" means, as the context requires, an Act of Parliament or an Act of the Scottish Parliament,

"Act of Parliament" includes an Act of Parliament whenever passed,

"Act of the Scottish Parliament" includes an Act of the Scottish Parliament whenever passed,

"civil partnership" means a civil partnership which exists by virtue of the Civil Partnership Act 2004 (c. 33) (and any reference to a civil partner is to be read accordingly),

"commencement", in relation to an Act or subordinate legislation, means the time at which the Act or subordinate legislation comes into force,

[F3]"…

"document" means anything in which information is recorded in any form (and references to producing a document are to be read accordingly),

"enactment" means any of the following, whenever passed or made—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) an instrument made under an Act of Parliament,

(d) a Scottish instrument,

(e) a provision of any such Act or instrument,

"the EU", "the Treaties", "the EU Treaties", "EU instrument" and other expressions defined by section 1 of and Schedule 1 to the European Communities Act 1972 (c. 68) have the meanings given by that Act,

"financial year" means a year ending with 31 March,

"functions" includes powers and duties; and "confer", in relation to functions, includes impose,

"High Court" means the High Court of Justiciary,

"land" includes buildings and other structures, land covered with water, and any right or interest in or over land,

"Lands Clauses Acts" means the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19) and the Lands Clauses Consolidation Acts Amendment Act 1860 (c. 106), and any Acts for the time being in force amending those Acts,

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), and "area" in relation to a local authority, means the local government area for which the authority is constituted,

[[F4]"marriage" means marriage between persons of different sexes and marriage between persons of the same sex (and any reference to a person being (or having been) married to another person, or to two people being (or having been) married to each other, is to be read accordingly),**]**

"member of the Scottish Executive" has the same meaning as in section 44(1) of the Scotland Act 1998 (c. 46),

"modify" includes amend or repeal,

"month" means calendar month,

"oath" and "affidavit" include affirmation and declaration; and "swear" includes affirm and declare,

"ordnance map" means a map made under powers conferred by the Ordnance Survey Act 1841 (c. 30),

"person" includes a body of persons corporate or unincorporated and a partnership constituted under the law of Scotland,

F3 …

F3 …

F3 …

"the Privy Council" means the Lords and others of Her Majesty's Most Honourable Privy Council,

"registered", in relation to nurses and midwives, means registered in the register maintained under article 5 of the Nursing and Midwifery Order 2001 (S.I. 2001/253) by virtue of qualifications in nursing or midwifery, as the case may be,

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 (c. 54) who holds a licence to practise under that Act,

"rules of court", in relation to a court, means rules made by the authority having power to make rules or orders regulating the practice and procedure of that court; and includes acts of adjournal and acts of sederunt,

"Scotland" is to be construed in accordance with section 126(1) and (2) of the Scotland Act 1998 (c. 46),

"the Scottish Administration" is to be construed in accordance with section 126(6) of the Scotland Act 1998 (c. 46),

"Scottish instrument" has the meaning given by section 1(4),

"the Scottish Ministers" is to be construed in accordance with section 44(2) of the Scotland Act 1998 (c. 46),

"Scottish public authority" has the meaning given by section 126(1) of the Scotland Act 1998 (c. 46),

"Secretary of State" means one of Her Majesty's Principal Secretaries of State,

[F5"sheriff" is to be construed in accordance with section 134(2) and (3) of the Courts Reform (Scotland) Act 2014,**]**

"standard scale", with reference to a fine or penalty for an offence triable only summarily, has the meaning given by section 225(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46),

"statutory declaration" means a declaration made by virtue of the Statutory Declarations Act 1835 (c. 62),

"statutory maximum", with reference to a fine or penalty on summary conviction for an offence, means the prescribed sum within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 (c. 46),

"subordinate legislation" means an instrument made or to be made by virtue of an Act of Parliament or an Act of the Scottish Parliament,

"United Kingdom" means Great Britain and Northern Ireland,

[F4"widow" includes a woman whose marriage to another woman ended with the other woman's death,**]**

[F4"widower" includes a man whose marriage to another man ended with the other man's death,**]**

"writing" includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form; and expressions referring to writing are to be construed accordingly.

Textual Amendments

F3 Words in sch. 1 repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F4 Words in sch. 1 inserted (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 4(15)**, 36; S.S.I. 2014/287, art. 3, Sch.

F5 Words in sch. 1 substituted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 45**; S.S.I. 2015/77, art. 2(2)(3), sch.

Textual Amendments

F3 Words in sch. 1 repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F4 Words in sch. 1 inserted (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 4(15)**, 36; S.S.I. 2014/287, art. 3, Sch.

F5 Words in sch. 1 substituted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 45**; S.S.I. 2015/77, art. 2(2)(3), sch.

SCHEDULE 2

(introduced by section 27(6))

SCOTTISH STATUTORY INSTRUMENTS: TRANSITIONAL AND CONSEQUENTIAL PROVISION

Modifications etc. (not altering text)

C16 Sch. 2 modified (23.3.2016) by Scotland Act 2016 (c. 11), **ss. 68(1)**, 72(1)(c)

Interpretation

1 (1) In this schedule—

"devolved Scottish public authority" means an authority to which paragraph 1 or 2 of Part 3 of Schedule 5 to the Scotland Act 1998 (c. 46) applies (Scottish public authorities with mixed or no reserved functions), and

"pre-commencement enactment" means an enactment passed or made before Part 2 comes into force.

(2) A reference in this schedule to a function's being exercisable within devolved competence is to be construed in accordance with section 54 of the Scotland Act 1998 (c. 46).

(3) For the purpose of the definition of "pre-commencement enactment" in sub-paragraph (1), an Act of the Scottish Parliament is to be taken to have been passed on the date on which the Bill for the Act was passed by the Parliament.

Commencement Information

I29 Sch. 2 para. 1 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Ministerial functions of making orders or regulations under pre-commencement enactments

2 (1) This paragraph applies in relation to any function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving orders, regulations or rules under a pre-commencement enactment.

(2) If a provision of any pre-commencement enactment provides for the function to be exercisable by statutory instrument, that provision ceases to have effect so far as it relates to the exercise of the function.

(3) If no provision is made in any pre-commencement enactment for the function to be exercisable by statutory instrument, then the function is not to be exercisable by Scottish statutory instrument.

Commencement Information
I30 Sch. 2 para. 2 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Functions of making Orders in Council

3 (1) This paragraph applies in relation to any function of Her Majesty of making Orders in Council under a pre-commencement enactment, so far as the function is exercisable within devolved competence.

(2) Section 1 of the Statutory Instruments Act 1946 (c. 36) (definition of "statutory instrument") ceases to have effect in relation to the exercise of the function.

(3) If provision is made in any pre-commencement enactment which disapplies that section in relation to the function, then the function is not to be exercisable by Scottish statutory instrument.

Commencement Information
I31 Sch. 2 para. 3 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Functions of making acts of adjournal or acts of sederunt

4 (1) This paragraph applies in relation to any function of the High Court of Justiciary of making acts of adjournal or the Court of Session of making acts of sederunt under a pre-commencement enactment.

(2) If provision is made in the pre-commencement enactment conferring the function for the function to be exercisable otherwise than by statutory instrument, then the function is not to be exercisable by Scottish statutory instrument.

Commencement Information
I32 Sch. 2 para. 4 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Other functions of making etc. subordinate legislation under pre-commencement enactments

5 (1) This paragraph applies in relation to—

(a) a function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving subordinate legislation under a pre-commencement enactment,

(b) a function of a devolved Scottish public authority of making, confirming or approving subordinate legislation under such an enactment, and

(c) a function of any other person (other than a Minister of the Crown) of making, confirming or approving subordinate legislation under such an enactment, so far as the function is exercisable within devolved competence.

(2) A provision of any pre-commencement enactment which provides for the function to be exercisable by statutory instrument has effect in relation to the exercise of the function as if it provided instead for the function to be exercisable by Scottish statutory instrument.

(3) This paragraph does not apply in relation to a function to which paragraph 2 or 3 applies.

Commencement Information

I33 Sch. 2 para. 5 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Functions to which this schedule does not apply

6 Nothing in this schedule applies in relation to—

(a) a function of agreeing or consenting to, or otherwise approving, subordinate legislation made by a Minister of the Crown,

(b) a function which is exercised jointly with a Minister of the Crown, or

(c) a function of making an Order in Council which is, or a draft of which is, to be laid before each House of Parliament as well as the Scottish Parliament.

Commencement Information

I34 Sch. 2 para. 6 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

SCHEDULE 3

(introduced by section 35)

MODIFICATION OF PRE-COMMENCEMENT ENACTMENTS

Modifications etc. (not altering text)

C17 Sch. 3 excluded (6.4.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Savings and Transitional Provisions) Order 2011 (S.S.I. 2011/88), arts. 1, **5**

C18 Sch. 3 modified (23.3.2016) by Scotland Act 2016 (c. 11), **ss. 68(2)**, 72(1)(c)

Interpretation

1 (1) In this schedule, "pre-commencement enactment" means an enactment passed or made before Part 2 comes into force.

(2) For the purposes of that definition, an Act of the Scottish Parliament is to be taken to have been passed on the date on which the Bill for the Act was passed by the Parliament.

Commencement Information
I35 Sch. 3 para. 1 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments subject to annulment in pursuance of a resolution of the Parliament

2 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Commencement Information
I36 Sch. 3 para. 2 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments laid in draft which cannot be made where the Parliament so resolves within 40 days

3 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, may be laid in draft but cannot be made if the Scottish Parliament so resolves within 40 days of the draft being laid.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Commencement Information
I37 Sch. 3 para. 3 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments required to be laid for a specified period before coming into force and subject to annulment by the Parliament

4 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation—

(a) is to be laid before the Scottish Parliament for a specified period before it comes into force, and

(b) is subject to annulment in pursuance of a resolution of the Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Commencement Information
I38 Sch. 3 para. 4 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments which cannot be made unless a draft is laid before and approved by resolution of the Parliament

5 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation cannot be made unless a draft of the Scottish statutory instrument containing it is laid before and approved by resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the affirmative procedure.

Commencement Information
I39 Sch. 3 para. 5 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments made but which cannot come into force unless laid before, and approved by resolution of, the Parliament

6 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, may be made, but cannot come into force, unless it is laid before and approved by resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the affirmative procedure.

Commencement Information
I40 Sch. 3 para. 6 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments required to be laid for a specified period before coming into force

7 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, is to be laid before the Scottish Parliament for a specified period before it comes into force.

(2) The enactment is to be read as if it did not so provide, or have the effect of so providing, in relation to the legislation.

(3) Sub-paragraph (2) does not affect the operation of section 30 in relation to the legislation.

Commencement Information
I41 Sch. 3 para. 7 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments not required to be laid before the Parliament

8 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, need not be laid before the Scottish Parliament.

(2) The enactment is to be read as if it did not so provide, or have the effect of so providing, in relation to the legislation.

(3) Sub-paragraph (2) does not affect the operation of section 30 in relation to the legislation.

Commencement Information
I42 Sch. 3 para. 8 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

SCHEDULE 4

(introduced by section 36)

APPLICATION OF PART 2 TO STATUTORY INSTRUMENTS LAID BEFORE THE PARLIAMENT

Modifications etc. (not altering text)
C19 Sch. 4 excluded (6.4.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Savings and Transitional Provisions) Order 2011 (S.S.I. 2011/88), arts. 1, **4(2)**

Interpretation

1 In this schedule—

"pre-commencement enactment" means an enactment passed or made before Part 2 comes into force, and

"statutory instrument" means a statutory instrument within the meaning of section 1 of the Statutory Instruments Act 1946 (c. 36).

Commencement Information
I43 Sch. 4 para. 1 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments subject to annulment in pursuance of a resolution of the Parliament

2 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument, a pre-commencement enactment provides, or has the

effect of providing, that the legislation, or the statutory instrument containing it, is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the subordinate legislation to be subject to the negative procedure in the Scottish Parliament.

(3) Sections 28 and 31 apply in relation to the subordinate legislation as they apply in relation to devolved subordinate legislation which is subject to the negative procedure, but as if the references in them to a Scottish statutory instrument were references to a statutory instrument.

Commencement Information

I44 Sch. 4 para. 2 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Instruments which cannot be made unless a draft is laid before and approved by resolution of the Parliament

3 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument, a pre-commencement enactment provides, or has the effect of providing, that the legislation cannot be made unless a draft of the statutory instrument containing it is laid before, and approved by resolution of, the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the subordinate legislation to be subject to the affirmative procedure in the Scottish Parliament.

(3) Section 29 applies in relation to the subordinate legislation as it applies in relation to devolved subordinate legislation which is subject to the affirmative procedure, but as if the reference in it to a draft of a Scottish statutory instrument were a reference to a draft of a statutory instrument.

Commencement Information

I45 Sch. 4 para. 3 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Other instruments laid before the Parliament

4 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument—

(a) a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the statutory instrument containing it, must be laid before the Scottish Parliament, and

(b) paragraphs 2 and 3 do not apply.

(2) Sections 30 and 31 apply in relation to the subordinate legislation as they apply in relation to devolved subordinate legislation which is not subject to the negative procedure or the affirmative procedure, but as if the references in them to a Scottish statutory instrument were references to a statutory instrument.

Commencement Information

I46 Sch. 4 para. 4 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Laying of statutory instruments before the Parliament

5 Section 32 applies in relation to the laying of a statutory instrument, or a draft of a statutory instrument, before the Scottish Parliament as it applies in relation to the laying of a Scottish statutory instrument or, as the case may be, a draft of a Scottish statutory instrument, before the Parliament

Commencement Information

I47 Sch. 4 para. 5 in force at 6.4.2011 by S.S.I. 2011/17, **art. 3(a)**

Status:
Point in time view as at 18/05/2017.

Changes to legislation:
There are currently no known outstanding effects for the Interpretation and Legislative Reform (Scotland) Act 2010.