

# INTERPRETATION AND LEGISLATIVE REFORM (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### THE ACT - BACKGROUND

#### **Part 3: Publication of Acts and Instruments**

##### **Overview**

87. **Part 3** of the Act makes provision about the numbering, printing, publication and preservation of ASPs and SSIs.

##### ***Section 38 - Official prints of Acts of the Scottish Parliament***

88. This section restates and replaces articles 3(1) and (2) and 4 of the Interpretation Order.
89. **Section 38** makes provision about the numbering of ASPs. They are to be numbered consecutively in each calendar year according to the date on which they received Royal Assent with the prefix “asp” before the number – for example 2010 asp 10. Subsections (6) and (8) make provision for the Clerk of the Parliament to write this number on a copy of the ASP and for that copy to be known as “the official print”.

##### ***Section 39 - Publication of official prints of Acts of the Scottish Parliament***

90. This section restates and replaces article 3(3) and (4) of the Interpretation Order.
91. It makes provision for the printing and publication of the certified copy of every ASP. The Clerk of the Parliament is required to certify a copy of the official print of each ASP and send it to the Queen’s Printer for Scotland (“QPS”) who is required to ensure that it is printed and made available for sale. The QPS is also empowered to make other arrangements for the publication of ASPs, for example on a website.

##### ***Section 40 - Preservation of official prints of Acts of the Scottish Parliament***

92. This section requires the Clerk of the Parliament to send the official print of each ASP to the Keeper of the Records of Scotland who is required to preserve it.
93. This section replicates article 3(4). The express duty imposed on the Keeper by subsection (2) to preserve the official print is new; it has hitherto been implied.

##### ***Section 41 - Queen’s Printer for Scotland to publish instruments***

94. **Section 41(1)** requires the responsible authority, as soon as possible after an SSI is made, to send a certified copy of it to the QPS. **Section 41(2)** requires the QPS to publish copies of it in accordance with regulations made under section 42.
95. **Section 41(3)** provides that, in criminal proceedings for an offence consisting of a contravention of an SSI, it is a defence to prove that, at the date of the alleged contravention, the SSI had not been published by the QPS. **Section 41(4)** qualifies this

by providing that this defence is not available if it is proved that reasonable steps had been taken by, or on behalf of, the responsible authority to bring the SSI to the notice of the public, persons likely to be affected by it or the person charged. It is made clear that this does not affect any rule of law relating to the time at which the SSI comes into force.

***Section 42 - Publication, numbering and citation: regulations***

96. This section requires the Scottish Ministers, by regulations subject to the affirmative procedure, to make provision for, or in connection with, the publication, numbering and citation of SSIs. The regulations made must make provision for the publication of all instruments on a website or by other electronic means.
97. This is intended to enable provision to be made which is similar to the kind of detailed provisions in articles 5 to 9 of the SI Order. It also enables the regulations to make provision for charging for the provision of copies of SSIs or of the lists or annual editions of them.

***Section 43 - Preservation of Scottish statutory instruments***

98. This section requires the “responsible authority” to ensure that the Keeper of the Records of Scotland receives the signed copy of each SSI made by the authority. For the purposes of this section “responsible authority” has the meaning given in section 31(6). Section 43(2) obliges the Keeper to preserve every SSI received.

***Section 44 - Publication in the Gazettes***

99. This section makes provision as to what is meant when any enactment requires an SSI to be published or notified in the London, Edinburgh or Belfast Gazette. It provides that this requirement is complied with if a notice is published in the Gazette stating that the SSI has been made and providing information as to how copies of it may be obtained.

***Section 45 - No duty to print Scottish statutory instruments***

100. This section amends section 92(1)(a) of the Scotland Act 1998 to remove the duty on the QPS to print copies of SSIs. The duty to print imposed by the Scotland Act is being removed to reflect the greater emphasis being placed by sections 41 and 42 on publication (particularly online publication).

***Section 46 - Queen’s Printer: delegation of functions***

101. [Section 46](#) provides for the delegation of any of the functions conferred on the QPS by Part 3 of the Act or by regulations made under section 42. The QPS will remain responsible for carrying out such functions and anything done by the delegate is to be treated as if done by the QPS. This provision will enable the QPS, for example, to contract out the printing and selling of SSIs as she does at present.

***Section 47: Interpretation of Part 3***

102. This section provides for the interpretation of expressions used in Part 3.