



# Interpretation and Legislative Reform (Scotland) Act 2010

## 2010 asp 10

### PART 1

#### INTERPRETATION

##### *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.
- (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 adjournment and other rules of court),
  - (e) a scheme,

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- (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.

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- (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.
- (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.

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### *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,

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- (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
  - (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,

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- (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.

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## **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.

### *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.

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### *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—



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- (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.

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