



Number 23 of 2005

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Number 23 of 2005

INTERPRETATION ACT 2005

AN ACT RESPECTING THE INTERPRETATION AND APPLICATION OF ACTS AND OF STATUTORY INSTRUMENTS MADE UNDER ACTS AND PROVIDING FOR THE REPEAL OF CERTAIN ENACTMENTS RELATING TO THOSE MATTERS.

[17th October, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Interpretation Act 2005. Short title and commencement.
(2) This Act comes into operation on 1 January 2006.

2.—(1) In this Act— Interpretation.

“Act” means—

- (a) an Act of the Oireachtas, and
- (b) a statute which was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and which continued in force by virtue of Article 50 of the Constitution;

“enactment” means an Act or a statutory instrument or any portion of an Act or statutory instrument;

“repeal” includes revoke, rescind, abrogate or cancel;

“statutory instrument” means an order, regulation, rule, bye-law, warrant, licence, certificate, direction, notice, guideline or other like document made, issued, granted or otherwise created by or under an Act and references, in relation to a statutory instrument, to “made” or to “made under” include references to made, issued, granted or otherwise created by or under such instrument.

(2) For the purposes of this Act, an enactment which has been replaced or has expired, lapsed or otherwise ceased to have effect is deemed to have been repealed.

Repeals and savings.

3.—(1) The following Acts are repealed:

- (a) the Interpretation Act 1889;
- (b) the Interpretation Act 1923;
- (c) the Interpretation Act 1937;
- (d) the Interpretation (Amendment) Act 1993.

(2) (a) The repeal by this Act of an Act which assigns a meaning to a word or expression in another enactment does not affect the meaning so assigned if—

- (i) in the absence of that meaning in this Act, or
- (ii) by the application to the other enactment of the meaning assigned by this Act to the same or a similar word or expression,

the other enactment would be changed in intent or become unclear or absurd.

(b) The repeal by this Act of an Act which provides for any matter (other than a matter to which *paragraph (a)* relates) in another enactment does not affect the matter so provided for if—

- (i) in the absence of that matter being provided for in this Act, or
- (ii) by the application to the other enactment of a matter provided for by this Act which corresponds to a matter provided for in the repealed Act concerned,

the other enactment would be changed in intent or become unclear or absurd.

Application.

4.—(1) A provision of this Act applies to an enactment except in so far as the contrary intention appears in this Act, in the enactment itself or, where relevant, in the Act under which the enactment is made.

(2) The provisions of this Act which relate to other Acts also apply to this Act unless the contrary intention appears in this Act.

PART 2

MISCELLANEOUS RULES

Construing ambiguous or obscure provisions, etc.

5.—(1) In construing a provision of any Act (other than a provision that relates to the imposition of a penal or other sanction)—

- (a) that is obscure or ambiguous, or

- (b) that on a literal interpretation would be absurd or would fail to reflect the plain intention of—
- (i) in the case of an Act to which *paragraph (a)* of the definition of “Act” in *section 2(1)* relates, the Oireachtas, or
 - (ii) in the case of an Act to which *paragraph (b)* of that definition relates, the parliament concerned,

the provision shall be given a construction that reflects the plain intention of the Oireachtas or parliament concerned, as the case may be, where that intention can be ascertained from the Act as a whole.

(2) In construing a provision of a statutory instrument (other than a provision that relates to the imposition of a penal or other sanction)—

- (a) that is obscure or ambiguous, or
- (b) that on a literal interpretation would be absurd or would fail to reflect the plain intention of the instrument as a whole in the context of the enactment (including the Act) under which it was made,

the provision shall be given a construction that reflects the plain intention of the maker of the instrument where that intention can be ascertained from the instrument as a whole in the context of that enactment.

6.—In construing a provision of any Act or statutory instrument, a court may make allowances for any changes in the law, social conditions, technology, the meaning of words used in that Act or statutory instrument and other relevant matters, which have occurred since the date of the passing of that Act or the making of that statutory instrument, but only in so far as its text, purpose and context permit.

Construing provisions in changing circumstances.

7.—(1) In construing a provision of an Act for the purposes of *section 5* or *6*, a court may, notwithstanding *section 18(g)*, make use of all matters that accompany and are set out in—

Supplemental provision to *sections 5* and *6*.

- (a) in the case of an Act of the Oireachtas, the signed text of such law as enrolled for record in the Office of the Registrar of the Supreme Court pursuant to Article 25.4.5° of the Constitution,
- (b) in the case of an Act of the Oireachtas of Saorstát Éireann, the signed text of such law as enrolled for record in the office of such officer of the Supreme Court of Saorstát Éireann as Dáil Éireann determined pursuant to Article 42 of the Constitution of the Irish Free State (Saorstát Éireann),
- (c) in the case of any other Act, such text of that Act as corresponds to the text of the Act enrolled in the manner referred to in *paragraph (a)* or *(b)*.

(2) For the purposes of *subsection (1)*, it shall be presumed, until

the contrary is shown, that a copy of the text of an Act that is required to be judicially noticed is a copy of the text to which *subsection (1)* relates.

Reading provisions together as one and summary proceedings for offences.

8.—Where—

(a) an Act or portion of an Act (whenever passed)—

- (i) provides that summary proceedings for offences under it may be prosecuted by a specified person, and
- (ii) is subsequently read together as one with any provision of another Act,

and

(b) an offence is created under that provision which can be prosecuted in a summary manner but no express power is given to the specified person to so prosecute,

then, the specified person may bring summary proceedings for an offence under that other provision unless some other person is authorised by that other Act to bring such proceedings.

References in enactments to Parts, etc.

9.—(1) A reference in an enactment to a Part, Chapter, section, Schedule or other division, by whatever name called, shall be read as a reference to a Part, Chapter, section, Schedule or other division of the enactment in which the reference occurs.

(2) A reference in an enactment to a subsection, paragraph, subparagraph, clause, subclause, article, subarticle or other division, by whatever name called, shall be read as a reference to a subsection, paragraph, subparagraph, clause, subclause, article, subarticle or other division of the provision in which the reference occurs.

Enactment always speaking.

10.—An enactment continues to have effect and may be applied from time to time as occasion requires.

References in enactments to examples.

11.—If under the heading—

- (a) in the Irish language “Sampla” or “Samplaí”, or
- (b) in the English language “Example” or “Examples”,

an enactment includes at the end of a provision or in a schedule relating to such provision an example of the operation of the provision, then the example—

- (i) is not to be read as exhaustive of the provision, and
- (ii) may extend, but does not limit, the meaning of the provision.

Deviation from form.

12.—Where a form is prescribed in or under an enactment, a deviation from the form which does not materially affect the substance of the form or is not misleading in content or effect does not invalidate the form used.

PART 3

CITATION AND OPERATION OF ENACTMENTS

13.—An Act is a public document and shall be judicially noticed. Judicial notice.

14.—(1) An Act may be cited in any enactment or other document— Citation and references to amended enactments.

- (a) by the long title or short title of the Act,
- (b) where appropriate, by the consecutive number of the Act in the calendar year and by the calendar year in which it was passed, or
- (c) where the Act was passed prior to the enactment of the Constitution of the Irish Free State (Saorstát Eireann) Act 1922, by its regnal year and chapter number and, where there was more than one parliamentary session in the same regnal year, by reference to the session concerned.

(2) A citation of or a reference to an enactment shall be read as a citation of or reference to the enactment as amended (including as amended by way of extension, application, adaptation or other modification of the enactment), whether the amendment is made before, on or after the date on which the provision containing the citation or reference came into operation.

(3) In citing—

- (a) an Act by its short title, or
- (b) any other enactment by its citation (if any),

a comma immediately before a reference to a year and a comma immediately after such a reference that is not required for the purpose of punctuation may be omitted.

15.—(1) The date of the passing of an Act of the Oireachtas is the date of the day on which the Bill for the Act is signed by the President. Date of passing of Acts of Oireachtas.

(2) Immediately after the Bill for an Act of the Oireachtas is signed by the President, the Clerk of Dáil Éireann shall endorse on the Act immediately after the long title the date of the passing of the Act, and that date shall be taken to be part of the Act.

16.—(1) Subject to *subsection (2)*, every provision of an Act comes into operation on the date of its passing. Commencement.

(2) Where an Act or a provision of an Act is expressed to come into operation on a particular day (whether the day is before or after the date of the passing of the Act and whether the day is named in the Act or is to be fixed or ascertained in a particular manner), the Act or provision comes into operation at the end of the day before the particular day.

(3) Subject to *subsection (4)*, every provision of a statutory instrument comes into operation at the end of the day before the day on which the statutory instrument is made.

(4) Where a statutory instrument or a provision of a statutory instrument is expressed to come into operation on a particular day (whether the day is before or after the date of the making of the statutory instrument and whether the day is named in the instrument or is to be fixed or ascertained in a particular manner), the statutory instrument or provision comes into operation at the end of the day before the particular day.

Exercise of statutory powers before commencement of Act.

17.—Where an Act or a provision of an Act is expressed to come into operation on a day subsequent to the date of the passing of the Act, the following provisions apply:

- (a) if the day on which the Act or the provision comes into operation is to be fixed or ascertained in a particular manner, the statutory instrument, act or thing whereby the day is fixed or ascertained may, subject to any restriction imposed by the Act, be made or done at any time after the passing of the Act;
- (b) if, for the purposes of the Act or the provision, the Act confers a power to make a statutory instrument or do any act or thing, the making or doing of which is necessary or expedient to enable the Act or provision to have full force and effect immediately on its coming into operation, the power may, subject to any restriction imposed by the Act, be exercised at any time after the passing of the Act.

PART 4

MEANING AND CONSTRUCTION OF WORDS AND EXPRESSIONS

General rules of construction.

18.—The following provisions apply to the construction of an enactment:

- (a) *Singular and plural.* A word importing the singular shall be read as also importing the plural, and a word importing the plural shall be read as also importing the singular;
- (b) *Gender.*
 - (i) A word importing the masculine gender shall be read as also importing the feminine gender;
 - (ii) In an Act passed on or after 22 December 1993, and in a statutory instrument made after that date, a word importing the feminine gender shall be read as also importing the masculine gender;
- (c) *Person.* “Person” shall be read as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual, and the subsequent use of any pronoun in place of a further use of “person” shall be read accordingly;

- (d) *Adopted child.* A reference, however expressed, to a child of a person shall be read as including—
- (i) in an Act passed after the passing of the Adoption Act 1976 a reference to a child adopted by the person under the Adoption Acts 1952 to 1998 and every other enactment which is to be construed together with any of those Acts, or
 - (ii) in an Act passed on or after 14 January 1988 (the commencement of section 3 of the Status of Children Act 1987), a child to whom *subparagraph (i)* relates or a child adopted outside the State whose adoption is recognised by virtue of the law for the time being in force in the State;
- (e) *Distance.* A word or expression relating to the distance between two points and every reference to the distance from or to a point shall be read as relating or referring to such distance measured in a straight line on a horizontal plane;
- (f) *Series description.* Where a consecutive series is described by reference to the first and last in the series, the description shall be read as including the first and the last in the series;
- (g) *Marginal and shoulder notes, etc.* Subject to *section 7*, none of the following shall be taken to be part of the enactment or be construed or judicially noticed in relation to the construction or interpretation of the enactment:
- (i) a marginal note placed at the side, or a shoulder note placed at the beginning, of a section or other provision to indicate the subject, contents or effect of the section or provision,
 - (ii) a heading or cross-line placed in or at the head of or at the beginning of a Part, Chapter, section, or other provision or group of sections or provisions to indicate the subject, contents or effect of the Part, Chapter, section, provision or group;
- (h) *Periods of time.* Where a period of time is expressed to begin on or be reckoned from a particular day, that day shall be deemed to be included in the period and, where a period of time is expressed to end on or be reckoned to a particular day, that day shall be deemed to be included in the period;
- (i) *Time.* Where time is expressed by reference to a specified hour or to a time before or after a specified hour, that time shall be determined by reference to the Standard Time (Amendment) Act 1971;
- (j) *Offences by corporations.* A reference to a person in relation to an offence (whether punishable on indictment or on summary conviction) shall be read as including a reference to a body corporate.

Construction of statutory instruments.

19.—A word or expression used in a statutory instrument has the same meaning in the statutory instrument as it has in the enactment under which the instrument is made.

Interpretation provisions.

20.—(1) Where an enactment contains a definition or other interpretation provision, the provision shall be read as being applicable except in so far as the contrary intention appears in—

- (a) the enactment itself, or
- (b) the Act under which the enactment is made.

(2) Where an enactment defines or otherwise interprets a word or expression, other parts of speech and grammatical forms of the word or expression have a corresponding meaning.

Interpretation of words and expressions in *Schedule*.

21.—(1) In an enactment, a word or expression to which a particular meaning, construction or effect is assigned in *Part 1* of the *Schedule* has the meaning, construction or effect so assigned to it.

(2) In an enactment which comes into operation after the commencement of this Act, a word or expression to which a particular meaning, construction or effect is assigned in *Part 2* of the *Schedule* has the meaning, construction or effect so assigned to it.

PART 5

POWERS AND DUTIES

Powers under enactments.

22.—(1) A power conferred by an enactment may be exercised from time to time as occasion requires.

(2) A power conferred by an enactment on the holder of an office as that holder shall be deemed to be conferred on, and may accordingly be exercised by, the holder for the time being of that office.

(3) A power conferred by an enactment to make a statutory instrument shall be read as including a power, exercisable in the like manner and subject to the like consent and conditions (if any), to repeal or amend a statutory instrument made under that power and (where required) to make another statutory instrument in place of the one so repealed.

Duties under enactments.

23.—(1) A duty imposed by an enactment shall be performed from time to time as occasion requires.

(2) A duty imposed by an enactment on the holder of an office as that holder shall be deemed to be imposed on, and shall accordingly be performed by, the holder for the time being of that office.

Rules of court.

24.—Where an enactment confers a new jurisdiction on a court or extends or varies an existing jurisdiction of a court, the authority having for the time being power to make rules or orders regulating the practice and procedure of the court has, and may at any time exercise, power to make rules or orders for regulating the practice and procedure of that court in the exercise of the jurisdiction so conferred, extended or varied.

25.—Where an enactment authorises or requires a document to be served by post, by using the word “serve”, “give”, “deliver”, “send” or any other word or expression, the service of the document may be effected by properly addressing, prepaying (where required) and posting a letter containing the document, and in that case the service of the document is deemed, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Service by post.

PART 6

AMENDMENT OF ENACTMENTS, ETC.

26.—(1) Where an enactment repeals another enactment and substitutes other provisions for the enactment so repealed, the enactment so repealed continues in force until the substituted provisions come into operation.

Repeals and substitutions.

(2) Where an enactment (“former enactment”) is repealed and re-enacted, with or without modification, by another enactment (“new enactment”), the following provisions apply:

- (a) a person appointed under the former enactment shall continue to act for the remainder of the period for which the person was appointed as if appointed under the new enactment;
- (b) a bond, guarantee or other security of a continuing nature given by a person under the former enactment remains in force, and data, books, papers, forms and things prepared or used under the former enactment may continue to be used as before the repeal;
- (c) proceedings taken under the former enactment may, subject to *section 27(1)*, be continued under and in conformity with the new enactment in so far as that may be done consistently with the new enactment;
- (d) if after the commencement of this Act—
 - (i) any provision of a former enactment, that provided for the making of a statutory instrument, is repealed and re-enacted, with or without modification, as a new provision, and
 - (ii) such statutory instrument is in force immediately before such repeal and re-enactment,

then the statutory instrument shall be deemed to have been made under the new provision to the extent that it is not inconsistent with the new enactment, and remains in force until it is repealed or otherwise ceases to have effect;

- (e) to the extent that the provisions of the new enactment express the same idea in a different form of words but are in substance the same as those of the former enactment, the idea in the new enactment shall not be taken to be

different merely because a different form of words is used;

- (f) a reference in any other enactment to the former enactment shall, with respect to a subsequent transaction, matter or thing, be read as a reference to the provisions of the new enactment relating to the same subject-matter as that of the former enactment, but where there are no provisions in the new enactment relating to the same subject-matter, the former enactment shall be disregarded in so far as is necessary to maintain or give effect to that other enactment.

Effect of repeal of enactment.

27.—(1) Where an enactment is repealed, the repeal does not—

- (a) revive anything not in force or not existing immediately before the repeal,
- (b) affect the previous operation of the enactment or anything duly done or suffered under the enactment,
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the enactment,
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence against or contravention of the enactment which was committed before the repeal, or
- (e) prejudice or affect any legal proceedings (civil or criminal) pending at the time of the repeal in respect of any such right, privilege, obligation, liability, offence or contravention.

(2) Where an enactment is repealed, any legal proceedings (civil or criminal) in respect of a right, privilege, obligation or liability acquired, accrued or incurred under, or an offence against or contravention of, the enactment may be instituted, continued or enforced, and any penalty, forfeiture or punishment in respect of such offence or contravention may be imposed and carried out, as if the enactment had not been repealed.

Section 21.

SCHEDULE

INTERPRETATION OF PARTICULAR WORDS AND EXPRESSIONS

PART 1

“affidavit”, in the case of a person for the time being allowed by law to declare instead of swearing, includes declaration;

“British statute” means an Act of the Parliament of the former United Kingdom of Great Britain and Ireland;

“Circuit Court” means the Circuit Court as established and for the time being maintained by law;

“commencement”, when used in relation to an enactment, means the time at which the enactment comes into operation;

“Constitution” means the Constitution of Ireland enacted by the people on 1 July 1937, as amended;

“Dáil Éireann” means the House of the Oireachtas to which that name is given by section 1 of Article 15 of the Constitution;

“District Court” means the District Court as established and for the time being maintained by law;

“financial year”, in relation to an exchequer financial year, means the period which is coextensive with a calendar year;

“Government” means the Government mentioned in Article 28 of the Constitution;

“Great Britain” does not include the Channel Islands or the Isle of Man;

“High Court” means the High Court as established and for the time being maintained by law pursuant to Article 34 of the Constitution;

“land” includes tenements, hereditaments, houses and buildings, land covered by water and any estate, right or interest in or over land;

“local financial year” means a period which is coextensive with a calendar year;

“midnight” means, in relation to a particular day, the point of time at which the day ends;

“Minister of the Government” means a member of the Government having charge of a Department of State;

“month” means a calendar month;

“oath”, in the case of a person for the time being allowed by law to affirm or declare instead of swearing, includes affirmation or declaration;

“Oireachtas” means the National Parliament provided for by Article 15 of the Constitution;

“ordnance map” means a map made under the powers conferred by the Survey (Ireland) Acts 1825 to 1870;

“President” means the President of Ireland or any Commission, or other body or authority, for the time being lawfully exercising the powers and performing the duties of the President;

“pre-union Irish statute” means an Act passed by a Parliament sitting in Ireland at any time before the coming into force on 1 January 1801 of the Act entitled “An Act for the Union of Great Britain and Ireland”;

“rateable valuation” means the valuation under the Valuation Act 2001 of the property concerned;

“rules of court” means rules made by the authority for the time being having power to make rules regulating the practice and procedure of the court concerned;

“Saorstát Éireann statute” means an Act of the Oireachtas of Saorstát Éireann;

“Seanad Éireann” means the House of the Oireachtas to which that name is given by section 1 of Article 15 of the Constitution;

“statutory declaration” means a declaration made under the Statutory Declarations Act 1938;

“Supreme Court” means the Supreme Court as established and for the time being maintained by law pursuant to Article 34 of the Constitution;

“swear”, in the case of a person for the time being allowed by law to affirm or declare instead of swearing, includes affirm and declare;

“week” means the period between midnight on any Saturday and midnight on the following Saturday;

“week-day” means a day which is not a Sunday;

“writing” includes printing, typewriting, lithography, photography, and other modes of representing or reproducing words in visible form and any information kept in a non-legible form, whether stored

electronically or otherwise, which is capable by any means of being reproduced in a legible form;

“year”, when used without qualification, means a period of 12 months beginning on the 1st day of January in any year.

PART 2

“Companies Acts” means the Companies Acts 1963 to 2001 and every other enactment which is to be read together with any of those Acts;

“full age”, in relation to a person, means the time when the person attains the age of 18 years or sooner marries, or any time after either event;

“functions” includes powers and duties, and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

“Member State” means, where the context so admits, a Member State of the European Communities or of the European Union;

“Minister of State” means a person appointed under section 1 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977 to be a Minister of State;

“public holiday” means a public holiday determined in accordance with the Organisation of Working Time Act 1997;

“Social Welfare Acts” means the Social Welfare (Consolidation) Act 1993 and every other enactment which is to be read together with that Act;

“working day” means a day which is not a Saturday, Sunday or public holiday.