

ACTS INTERPRETATION AMENDMENT BILL.

MEMORANDUM.

If this Bill is passed immediately after the enactment of the Consolidated Statutes, the advantage will be obtained of uniform language and interpretation throughout the new series of statutes which then commences.

Most of the provisions of the Bill are already in force either in England or in Australia. Sections 4 and 5, however, introduce new and important rules. Section 4 abolishes the old rule of the common law known as the *ejusdem generis* principle, according to which when a general word follows words of specific meaning the general word is not read in its natural sense, but is restricted in its application to things of the same kind as those referred to by the special words. The rule is one which gives rise to constant uncertainty and difficulty, and there seems to be no reason why the Legislature, when using a general term, should not be held to mean exactly what it says. In the English Prisons Act, 1865, for example, it is made an offence to convey into a prison, with intent to facilitate the escape of a prisoner, "any mask, dress, or other disguise, or any letter, or any other article or thing"; and it needed a decision of the Court for Crown Cases Reserved to decide that a crowbar was an "article or thing" within the meaning of the Act.

Section 5 alters to some extent the common law rule that an Act of Parliament does not bind the Crown unless an intention to that effect is expressed or appears by necessary implication. The true extent of this rule is the subject of much uncertainty, and the Bill gives a list of four kinds of statutory provisions which are not to bind the Crown (unless the contrary intention is expressed), and provides that in all other cases an Act applies to the Crown unless the Crown is expressly excepted. It will be understood that this alteration does not in itself affect in any way the prerogative of the Crown or the immunities of the Government; it simply alters the presumption as to the intention of the Legislature in passing future Acts. At present it is not uncommon to insert in an Act a clause to the effect that it is to bind the Crown (see, for example, the Bankruptcy Act, 1908, section 148).

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This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,
22nd July, 1908.

Hon. Dr. Findlay.

ACTS INTERPRETATION AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Rules of Court.</p> <p>4. <i>Ejusdem generis</i> rule abolished.</p> <p>5. Certain classes of Acts not to bind the Crown</p> <p>6. Division of Acts for purposes of reference only.</p> <p>7. Citation of Imperial Acts.</p> <p>8. Pending judicial proceedings not affected by expiration of Act.</p>	<p>9. Measurement of distances.</p> <p>10. Computation of time.</p> <p>11. Commencement of Acts, &c.</p> <p>12. "Commencement" with reference to Acts defined.</p> <p>13. "Cook Islands" defined. "New Zealand" defined.</p> <p>14. Discretionary power as to imprisonment and fines.</p>
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A BILL INTITULED

AN ACT to amend the Acts Interpretation Act, 1908. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

5 1. This Act may be cited as the Acts Interpretation Amendment Act, 1908, and it shall be read together with and deemed part of the Acts Interpretation Act, 1908 (hereinafter referred to as the principal Act). Short Title.

10 2. In this Act and in every Act passed after the commencement of this Act the words and expressions following shall severally have the meanings hereinafter in this section stated, unless a different intention appears:— Interpretation.

15 "Audit Office" means the Controller and Auditor-General, and includes the Assistant Controller and Auditor-General and the Deputy Controller and Auditor:

"Borough" includes city:

20 "Committed for trial" means committed to prison with the view of being tried before a Judge and jury, or admitted to bail upon a recognisance or other security to appear and be so tried: 52 and 53 Vict.,
c. 63, s. 27

"Consular officer" means a Consul-General, Consul, Vice-Consul, Consular Agent, and any person for the time being authorised to discharge the duties of Consul-General, Consul, or Vice-Consul: Ibid, s. 12

25 "Financial year" means, as respects any matters relating to the Public Account or to moneys provided by Parliament or to public taxes or finance, the period of twelve months ending on the expiration of the thirty-first day of March; Ibid, s. 22

“Information” means an information made in accordance with the Justices of the Peace Act, 1908, in respect of an offence punishable on summary conviction :

“Maori” means any person belonging solely to the aboriginal races of New Zealand, and includes the descendants of any such person being half-castes or being intermediate in blood between half-castes and persons of pure descent from the said races :

“Minor” means any person under the age of twenty-one years :

“Prescribed” means prescribed by the Act in which that term is used or by regulations made under the authority of that Act :

“Regulations” means regulations made by the Governor in Council :

“Summary conviction” means a conviction by a Magistrate or one or more Justices of the Peace in accordance with the Justices of the Peace Act, 1908.

Rules of Court.
52 and 53 Vict.,
c. 63, s. 14

3. (1.) In any Act passed after the commencement of this Act the expression “rules of Court,” when used in relation to any Court, means, unless a contrary intention appears, rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of that Court.

(2.) The power of the said authority to make rules of Court shall, unless the contrary intention appears, include a power to make rules of Court for the purpose of any Act which directs or authorises anything to be done by rules of Court.

Ejusdem generis
rule abolished.

4. In the case of any Act passed after the commencement of this Act a restricted interpretation shall not be given to general words merely because they are used in conjunction with other words of specific application.

Certain classes of
Acts not to bind
the Crown.

5. (1.) No Act passed after the commencement of this Act shall, unless a contrary intention appears, be construed so as to—

(a.) Impose any tax, rate, assessment, or other like charge on the Crown or upon any property in respect of the estate or interest of the Crown therein, or in respect of the use or possession thereof by or for the purposes of the Crown ; or

(b.) Authorise any local authority, body corporate, or person other than the Crown to bind the Crown by any by-law, rule, or regulation made by that authority, body corporate, or person ; or

(c.) Authorise any action or other legal proceeding to be brought against the Crown except in accordance with and under the provisions of the Crown Suits Act, 1908, or some other express statutory authority in that behalf ; or

(d.) Take away or restrict the prerogative of His Majesty to hear appeals in his Privy Council from any Court.

(2.) Save as in this section expressly provided, this Act and every Act passed after the commencement of this Act shall, unless a contrary intention appears, be so construed as to bind the Crown.

(3.) Paragraph (j) of section six of the principal Act is hereby repealed.

Repeal.
1888, No. 15, sec.
5 (8.)

6. In the case of every Act passed after the commencement of this Act the division of that Act into parts, titles, divisions, or subdivisions, and the headings of any such parts, titles, divisions, or subdivisions, shall be deemed for the purpose of reference to be part of the Act, but the said headings shall not affect the interpretation of the Act.

Division of Acts
for purposes of
reference only.
Australia, 1891,
No. 2, s. 13

7. (1.) In any Act, instrument, or document an Imperial Act may be referred to by its Short Title with or without the term "Imperial" prefixed or added thereto.

Citation of
Imperial Acts.
Ibid, s. 40

(2.) This section shall apply to all Imperial Acts which are in force in New Zealand, whether they are in force in the United Kingdom or not, and to all Short Titles conferred by an Imperial Act, whether that Act is in force in New Zealand or not.

8. The expiration of an Act shall not affect any judicial proceedings previously commenced under that Act, but all such proceedings may be continued and everything in relation thereto be done in all respects as if the Act continued in force.

Pending judicial
proceedings not
affected by
expiration of Act.
Ibid, s. 11

9. In the measurement of any distance for the purposes of any Act passed after the commencement of this Act that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Measurement of
distances.
52 and 53 Vict.,
c. 63, s. 34

10. Where in any Act passed after the commencement of this Act any period of time dating from a given day, act, or event is prescribed or allowed for any purpose, the time shall, unless a contrary intention appears, be reckoned as exclusive of that day or of the day of that act or event.

Computation
of time.
Australia, 1891,
No. 2, s. 36

11. When any Act or any provision of an Act passed after the commencement of this Act is expressed to take effect "from" a certain day, it shall, unless a contrary intention appears, take effect immediately on the commencement of the next succeeding day.

Commencement
of Acts, &c.

12. (1.) In this Act and in every Act passed after the commencement of this Act the term "commencement" when used in reference to an Act means the time at which the Act referred to comes into operation.

"Commencement"
with reference to
Acts defined.
52 and 53 Vict.,
c. 63, s. 36

(2.) The principal Act is hereby amended by repealing the interpretation of "commencement of Act" in section five thereof.

1888, No. 15, sec. 4,
"Cook Islands"
defined.

13. (1.) In this Act and in every Act passed after the commencement of this Act the expression "Cook Islands" means the islands and territories forming part of His Majesty's dominions and situated within the boundaries set forth in the Second Schedule to the Cook Islands Government Act, 1908.

(2.) In this Act and in every Act passed after the commencement of this Act the term "New Zealand" includes all islands and territories (other than the Cook Islands) forming part of the Dominion of New Zealand.

"New Zealand"
defined.

14. (1.) When by any Act passed after the commencement of this Act any person is made liable to imprisonment on summary conviction for any period, he may be sentenced to imprisonment for any shorter period, unless a minimum period of imprisonment is expressly provided by that Act.

Discretionary power
as to imprisonment
and fines.

(2.) When by any Act passed after the commencement of this Act any person is made liable on summary conviction to a fine of any amount, he may be sentenced to pay a fine of any less amount, unless a minimum fine is expressly provided by that Act.

(3.) When by any Act passed after the commencement of this Act any person is made liable on summary conviction to imprisonment, or to imprisonment with hard labour, he may be sentenced either to imprisonment with hard labour or to imprisonment without hard labour, unless a contrary intention is expressed. 5

By Authority : JOHN MACKAY, Government Printer, Wellington.—1908.