

Act No. 4, 1897.

An Act for consolidating enactments relating to the interpretation of Acts of Parliament, and for further shortening their language. [23rd June, 1897.]

INTERPRETATION.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

SHORT TITLE AND APPLICATION.

1. This Act may be cited as the "Interpretation Act of 1897." Short title.
2. (1) Notwithstanding anything in this Act the Acts mentioned in the Schedule hereto shall continue in force until specifically repealed, but, except as hereinafter provided, shall apply only to Acts heretofore passed. Application of Acts.

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(II) Sections fourteen, fifteen, and sixteen of the Act sixteenth Victoria number one, and sections seven and nine of the Act twenty-second Victoria number twelve, and so much of section ten of the last-mentioned Act as relates to the jurisdiction of the Courts therein mentioned, shall also continue to apply to Acts hereafter passed until further provision shall be made with respect thereto.

Application of Act. (III) This Act shall apply only to this Act and all Acts hereafter passed.

## DATE OF COMMENCEMENT OF ACTS.

Commencement of Acts reserved. 22 Vic. No. 12, sec. 3. 3. (I) Every Act reserved for the signification of Her Majesty's pleasure thereon shall be deemed to commence, and shall take effect on the day on which the fact of Her Majesty's assent shall be proclaimed by the Governor in the Gazette, or on such day thereafter as the Act itself prescribes.

Commencement of Acts assented to by the Governor. *Ib.* sec. 2. (II) Every Act to which the Royal assent shall be given by the Governor, for and on behalf of Her Majesty, shall be deemed to commence and shall take effect on and from the day on which such Act shall receive the Royal assent, unless the contrary intention appears in such Act.

Date of proclamation, and date of assent. *Ib.* sec. 2. 4. (I) The date of the proclamation in the Gazette of the fact of Her Majesty's assent to an Act reserved for the signification of Her Majesty's pleasure thereon, and also

(II) The date purporting to be that of the Royal assent by the Governor, for and on behalf of Her Majesty, which shall appear on the copy of an Act printed by the Government Printer, or which shall be printed on the copy of such Act in the Gazette,

To be judicially noticed. *Ib.* sec. 2. Shall be respectively received for all purposes as evidence of the date of such proclamation, and of such assent, and shall be judicially noticed.

## REPEAL AND EXPIRATION OF ACTS.

Continuing Act to operate upon passing from expiration of continued Act. 24 Vic. No. 17, sec. 1. 5. When a Bill for continuing a temporary Act has been introduced into Parliament, and is still pending at the date of the expiration of such Act, such Bill, upon receiving the Royal assent, shall, unless the contrary intention appears therein, be deemed to have taken effect in continuing such temporary Act on and from the date of its expiration :

No penalties incurred in the interval. *Ib.* Provided that no person shall be subjected to any punishment, penalty, or forfeiture, for or in respect of anything done or omitted by him, contrary to any provision of the continued Act, between the date of its expiration and the date of such assent.

Effect of repeal of enactment. 22 Vic. No. 12, sec. 4. 6. The repeal of an enactment by which a previous enactment was repealed shall not have the effect of reviving such last-mentioned enactment without express words.

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7. Where an Act repeals in the whole or in part a former Act, and substitutes provisions in lieu thereof, the repealed provisions shall remain in force until the substituted provisions come into operation.

Repealed enactment in force until substituted provisions operate.  
16 Vic. No. 1, sec. 4.

8. Where an Act repeals in the whole or in part a former Act, then, unless the contrary intention appears, the repeal shall not—

Effect of repeal.  
16 Vic. No. 1, sec. 4,  
22 Vic. No. 12, sec. 4.

(a) affect the previous operation of an enactment so repealed, or anything duly suffered, done, or commenced to be done under an enactment so repealed; or

Previous operation of repealed enactment.  
52 and 53 Vic., c. 63,  
sec. 38 (2) (b).

(b) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under an enactment so repealed; or

Rights &c., acquired.  
*Ib.* sec. 38 (2) (c).

(c) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against an enactment so repealed; or

Penalties, &c., incurred.  
*Ib.* sec. 38 (2) (d).

(d) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

Proceedings in respect of right, &c.  
*Ib.* sec. 38, (2) (e).

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed and enforced, as if the repealing Act had not been passed.

9. The expiration of an enactment shall not affect any civil proceeding previously commenced under such enactment, but every such proceeding may be continued, and everything in relation thereto be done in all respects as if the enactment continued in force.

Expiration of enactment.  
22 Vic. No. 12, sec. 4.

GENERAL PROVISIONS.

10. An Act may be altered, amended, or repealed in the same session of Parliament as that in which it was passed.

Acts may be altered, &c., in same session.  
16 Vic. No. 1, sec. 1.

11. Every section of an Act shall have effect as a substantive enactment without introductory words.

Every section a substantive enactment.  
*Ib.* sec. 2.

12. Every Act amending an Act shall be construed with the amended Act and as part thereof, unless the contrary intention appears in the amending Act.

Amending to be construed with amended Act.  
22 Vic. No. 12, sec. 5.

13. Every Act shall, unless the contrary intention appears, be deemed to be a Public Act, and shall be judicially noticed as such.

Every Act to be a Public Act.  
16 Vic. No. 1, sec. 5.

14. No Private Act which affects the property of individuals shall be deemed, by reason of anything herein or therein contained, to affect the rights of Her Majesty, or of any persons, excepting those at whose instance or for whose especial benefit such Act may have been passed, and those claiming by, through, or under them, but all such rights shall be deemed to be saved in such Act in the same manner as if a proviso for that purpose had been expressly inserted therein.

No Private Act to affect the Crown or individuals not named.  
*Ib.* sec. 17.

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## WORDS AND REFERENCES IN ACTS.

References to the  
Sovereign.  
16 Vic. No. 1, s. 7.

15. (I) In any Act references to the Sovereign reigning at the time of the passing of such Act or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being.

The word  
"Governor."  
*Ib.* sec. 7.  
54 Vic. No. 1058,  
sec. 5.

(II) Wherever in an Act the word "Governor" is used the same shall, unless the contrary intention appears, be construed to mean the Governor with the advice of the Executive Council, and the word Governor shall include the person for the time being lawfully administering the Government of New South Wales.

The expression  
"the Minister."  
*Ib.* sec. 7.

(III) Wherever in an Act the expression "the Minister" is used the same shall, unless the contrary intention appears, be construed to mean the Minister of the Crown for the time being administering the Act or part of the Act in which the expression is used.

Minister referred to  
by title of his office.  
*Ib.*

(IV) Wherever in an Act any Minister is referred to by the title of his Ministerial office, such reference shall, unless the contrary intention appears, be deemed to include any Minister for the time being acting for or on behalf of the Minister so referred to.

Mention of an officer  
in general terms.  
16 Vic. No. 1, sec. 7.

16. Wherever in an Act any person holding or occupying a particular office or position is mentioned or referred to in general terms, such mention or reference shall, unless the contrary intention appears, be taken to include all persons who shall at any time thereafter occupy for the time being the said office or position.

Words "in and for  
New South Wales" to  
be implied.  
*Ib.* sec. 8.

17. Wherever in an Act any officer or office is referred to, the same shall be taken to refer to the officer or office of the description designated in and for New South Wales, and all references to localities, jurisdictions, and other matters and things shall, unless the contrary intention appears, be taken to relate to such localities, jurisdictions, and other matters and things in and of New South Wales.

Expressions in instru-  
ment under an Act to  
have the same mean-  
ing as in the Act.  
52 and 53 Vic., c. 63,  
sec. 31.

18. Where an Act confers power to make, grant, or issue any instrument, that is to say any order, warrant, scheme, letters patent, rules, regulations, or by-laws, expressions used in any such instrument shall, unless the contrary intention appears, have the same meanings respectively as in the Act conferring the power.

References to  
"writing."  
*Ib.* sec. 20.

19. In any Act expressions referring to writing shall unless the contrary intention appears, be construed as including references to any mode of representing or reproducing words in a visible form.

"Statutory declara-  
tion."  
*Ib.* sec. 21.

20. The expression "statutory declaration" used in an Act shall, unless the contrary intention appears, mean a declaration made by virtue of any Act authorising a declaration to be made in lieu of an oath.

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21. In all Acts the following words shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them:—

- (a) Words importing the masculine gender shall include females; and  
Meaning of words.  
Masculine gender.  
16 Vic. No. 1, sec. 6.
- (b) Words in the singular shall include the plural and words in the plural shall include the singular.  
Singular and plural.  
Ib.
- (c) The words "person" and "party" shall include bodies politic, or corporate as well as individuals.  
"Person," "party"  
Ib.
- (d) The word "month" shall mean calendar month.  
"Month."  
Ib.
- (e) The word "land" shall include messuages, tenements, and hereditaments, corporeal and incorporeal of any tenure or description, and whatever may be the estate or interest therein.  
"Land."  
Ib.
- (f) The word "estate" shall include any estate, or interest, charge, right, title, claim, demand, lien, or incumbrance at law or in equity.  
"Estate."  
Ib.
- (g) The words "oath" and "affidavit" shall, in the case of persons for the time being allowed by law to affirm, declare, or promise instead of swearing, include affirmation, declaration, and promise, and the word "swear" shall in the like case include affirm, declare, and promise.  
"Oath," "affidavit,"  
"swear."  
Ib.
- (h) The word "Gazette" shall mean the New South Wales Government Gazette.  
"Gazette"  
22 Vic. No. 12, sec. 6.

22. The following expressions occurring in an Act shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

- (a) The expression "petty sessions" shall mean the justices of the peace assembled at any court of petty sessions, and shall include any stipendiary or other magistrate when sitting in a court-house or place at which he is authorised to do alone any act authorised to be done by more than one justice of the peace.  
Meaning of certain expressions.  
Petty Sessions.  
Ib. sec. 6.
- (b) The expression "court of summary jurisdiction" shall mean any justice or justices of the peace or other magistrate by whatever name called, to whom jurisdiction is given under any Act or Imperial Act.  
Court of summary jurisdiction.  
52 and 53 Vic., c. 63,  
sec. 13 (ii).

23. Wherever in an Act a power is conferred on any officer or person by the word "may," such word shall mean that the power may be exercised, or not, at discretion, but where the word "shall" confers the power such word shall mean that the power must be exercised.  
Meaning of "may" and "shall."  
22 Vic. No. 12, sec. 8.

24. (I) An Act passed in New South Wales may be referred to by the word "Act" alone.  
"Act."  
Ib. sec. 1.

(II) An Act passed by the Imperial Parliament may be referred to by the term "Imperial Act."  
"Imperial Acts."

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"The Constitution Statute."  
54 Vic. No. 1058,  
sec. 8.

(III) The Imperial Act eighteenth and nineteenth Victoria, chapter fifty-four, intituled "*An Act to enable Her Majesty to assent to a Bill as amended of the Legislature of New South Wales to confer a Constitution on New South Wales and to grant a Civil List to Her Majesty*" may be cited in all Acts, instruments, documents, and proceedings as "The Constitution Statute."

"The Constitution Act."  
*Ib.*

(IV) The Bill contained in the Schedule to the Constitution Statute may be cited in all Acts, instruments, documents, and proceedings as "The Constitution Act."

References to repealed provisions.  
52 and 53 Vic., c. 63,  
sec. 38 (1).

25. Where an Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

Rules of Court.  
*Ib.* sec. 14.

26. (I) The expression "rules of Court" occurring in an Act, when used in relation to any Court, shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such Court.

Power to make rules under future Act.  
*Ib.* sec. 14.

(II) The power of the said authority to make rules of Court as above defined, shall, unless the contrary intention appears, include a power to make rules of Court for the purpose of any Act directing or authorising anything to be done by rules of Court.

Meaning of service by post.  
*Ib.* sec. 26.

27. Where an Act authorises or requires any document to be served by post, whether the expression "serve," or the expression "give" or "send" or any other expression is used, then, unless the contrary intention appears, the service shall *prima facie* be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Meaning of the expression "committed for trial."  
*Ib.* sec. 27.

28. The expression "committed for trial," used in an Act in relation to any person, shall, unless the contrary intention appears, mean committed to prison with the view of being tried by a jury, and shall include a person who is admitted to bail upon a recognisance to appear and take his trial.

"Felony."  
46 Vic. No. 17, sec. 4.

29. The expression "felony" used in an Act shall mean a crime in respect of which the punishment of death, or of penal servitude, may be awarded.

## POWERS CONFERRED BY ACTS.

Grant of power to make appointments.  
16 Vic. No. 1, sec. 9.

30. Wherever by any Act power is given to Her Majesty, or to the Governor or to any officer or person, to make appointments to any office or place, it shall, unless the contrary intention appears, be intended:—

(a) That such power shall be capable of being exercised from time to time, as occasion may require; and,

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(b) That Her Majesty or the Governor, or such officer or person shall have power to remove or suspend the person appointed, and to appoint permanently or temporarily, as the case may require, another person in his stead, or in the place of any deceased, sick, or absent holder of such appointment.

**31.** Where an Act confers a power or imposes a duty on the holder of an office, as such, then unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office. Exercise of powers and duties. 52 and 53 Vic., c. 63, sec. 32 (2).

**32.** (I) Where an Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised, and the duty shall be performed, from time to time, as occasion requires. Powers conferred by Acts. 16 Vic. No. 1, sec. 10.

(II) Where an Act gives power to any officers or persons to make any rules, by-laws, orders, or regulations, it shall be implied that such officers or persons may rescind, revoke, alter, or vary the same from time to time as occasion requires. Power to make rules implies power to rescind. *Ib.* sec. 11.

**33.** Any Court, Judge, justice of the peace, officer, commissioner, arbitrator, or other person authorised by law, or by consent of parties to hear and determine any matter or thing, shall have authority to receive evidence and examine witnesses, and to administer an oath to all witnesses legally called before them respectively. Power to determine to include authority to administer oath. *Ib.* sec. 12.

SUPPLEMENTAL.

**34.** Judicial notice shall be taken of every Proclamation or Order by the Governor with the advice of the Executive Council made or purporting to be made in pursuance of any Act or Imperial Act and published in the Gazette. Proclamations judicially noticed. 22 Vic. No. 12, sec. 6.

**35.** (I) Distance of space mentioned or indicated in an Act shall be computed according to the nearest route ordinarily used in travelling, unless measurement in a direct line be expressed, or that construction be rendered necessary by the context. Computation of distance. *Ib.* s. 11.

(II) The time prescribed or allowed in an Act for the doing of a particular thing shall, unless the contrary intention appears, be taken to exclude the day of the act or event from or after which the time is to be reckoned, but to include the day for the doing of that thing: Reckoning of time. *Ib.*

Provided that where that day falls on Sunday, or on any day which is at the time a public or a bank holiday throughout New South Wales, the thing may be done on the first day following which is not a Sunday or a public or a bank holiday as aforesaid.

**36.** In any Act, instrument, or document, any Act passed during the present Session or hereafter to be passed may be cited by its short title, or by reference to the secular year in which it was passed Citation of Acts. 16 Vic. No. 1, sec. 3.

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passed and its number, and an Imperial Act by its short title, or the year of the reign in which it was passed and its chapter; and an enactment may be cited by reference to the section or subsection of the Act in which the enactment is contained, and every such reference shall be made according to the copy of such Act printed by the Government Printer, or purporting so to be, or, in the case of an Imperial Act, according to the copy of such Act printed by the Queen's Printer in London, or purporting so to be.

Exercise of statutory powers between passing and commencement of Act.  
52 and 53 Vic., c. 63, sec. 37.

**37.** Where an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any order, warrant, scheme, letters patent, rules, regulations, or by-laws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

## SCHEDULE.

Regnal Year and number of Act.	Title of Act.
16 Vic. No. 1 ...	An Act for shortening Acts of the Legislative Council.
22 Vic. No. 12 ...	An Act to amend and extend the Act passed for shortening Acts of the Legislature.
24 Vic. No. 17 ...	An Act for continuance of temporary Acts.