

Change 619{j619}: Interpretation: references to Scottish and Northern Ireland legislation: clauses 15{j8512}, 18{j8516}, 43{j8541}

This change is about the extent to which references to “Act” are to be interpreted as including references to Scottish and Northern Irish primary legislation.

Section 1018 of ITA 2007 sets out a list of sections of ITA where “Act” includes an Act of the Scottish Parliament and/or Northern Ireland legislation. We expect to adopt the same approach in this Bill.

Clauses 15{j8512} and 18{j8516} provide exemption for income of a charitable company or for income that “is required under an Act....to be applied to charitable purposes only”. Clause 43{j8541} contains the words “by or under a provision relating to any particular charities or class of charities contained in an Act”.

In each of these instances the reference to “an Act” is to the general law and not specifically to tax law.

“Northern Ireland legislation” is defined in section 24(5) of the Interpretation Act 1978 (the 1978 Act) and applies by virtue of Schedule 1 to the 1978 Act. It is the term commonly used in legislation when referring to Northern Irish primary legislation. The definition of “Northern Ireland legislation” has seven limbs, (a) to (g).

Section 832(1) of ICTA defines “Act” to include Acts of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly. So it expressly covers limbs (b) and (d) of the definition of “Northern Ireland legislation” in the 1978 Act. As a consequence of various deeming provisions contained in Schedule 12 to the Northern Ireland Act 1998, it also covers limbs (c), (e) and (f) of the definition of “Northern Ireland legislation”. Only limbs (a) and (g) of the definition of “Northern Ireland legislation” are not covered.

To simplify the definition of “Act” the current wording in section 832(1) of ICTA is to be replaced in the new clause with a simple reference to “Northern Ireland legislation”. The change in law is that limbs (a) and (g) of the definition of “Northern Ireland legislation” will now be covered.

The clause corresponding to section 1018 of ITA will also provide that in certain sections of this Act “Act” is to include Acts of the Scottish Parliament.

“Act” on its own does not include Acts of the Scottish Parliament (see the definition of “Act” in Schedule 1 to the 1978 Act). But it is appropriate that references to “Act” in clauses 15{j8512}, 18{j8516} and 43{j8541} should include references to Acts of the Scottish Parliament. In each of these cases the extension of the meaning of “Act” can only be advantageous to taxpayers.

*This change is in taxpayers' favour in principle and may benefit some in practice.
But the numbers affected and the amounts involved are likely to be small.*