

# Interpreting Welsh law: an interpretation act for Wales

Q1. Q1: Should we insert a reproduction of Schedule 1 to the Interpretation Act 1978 in the Welsh language into that Act, or should we aim to apply an interpretation Act for Wales to as much Welsh language legislation as possible?

Yes - Welsh legislation should have its own interpretation system. If legislation is written in Welsh then those words and phrases need to be interpreted in Welsh rather than through translation. Where the legislation relates to non-devolved areas then there needs to be consistency between the interpretation in England and that in Wales. A common interpretation framework would be required for those areas of legislation (as at present under the current Interpretation Acts). There is a danger that another layer of interpretation will create confusion so it is important that this is kept as simple as possible. The difficulty in identifying the correct legal sources for legislation in Wales is a problem for practitioners, let alone lay people, and this can be seen as a hindrance to justice for many

Q2. Q2: Do you agree with the potential benefits of a Welsh Interpretation Act identified in this consultation paper?

Yes

Q3. Comments

The benefits are clear when we have Welsh legislation which requires a Welsh form of interpretation. Where the legislation is non-devolved then clearly the English interpretation would prevail. It is the hybrid legislation which would be more difficult e.g. legislation which started in Westminster in a non-devolved area which has subsequently become devolved. For example you could have a piece of planning legislation which applies to England and Wales where amendments have been made by Westminster which apply to England only or amendments made by the National Assembly which apply in Wales only. Which Interpretation Act would apply in those cases/ Could there be a way of ensuring consistency between Westminster and NAW in those cases where the changes emanate from a common piece of legislation?

Q4. Q3: Which of the potential solutions to the "two-Act issue" would you consider to be most helpful to users of the legislation?

The options do not wholly address the difficulties which the "two-Act issue" would create. Of all the options, option C is the most favoured as it does at least refer to which Act should prevail. Another option, and which would provide more clarity, would be to apply the Welsh Interpretation Act to any matter on which the NAW is now the legislature even if the legislation originated in Westminster on a then non-devolved matter. This would however mean that until a full body of interpretation had been built up in Wales we would need to mirror the English interpretations to prevent a gap occurring i.e. basically starting with the English interpretation and then amending as the Welsh legislature grew

Q5. Q4: Do you consider there are any practical issues arising from any of the potential solutions to the two-Act issue?

Yes - all the suggestions carry practical issues. Until a comprehensive body of Welsh legislation has been codified (if ever) there will continue to be issues over interpretation. We have examples of very senior England-based lawyers interpreting legislation incorrectly already. The two-Act issue will inevitably create more issues but the problem is that there is no obvious solution.

Q6. Q5: What are your views on the potential changes to the 'core rules', set out in Chapter 7?

We agree with the changes to the core rules but they would have to be complimentary to the English interpretation rules to ensure consistency. We are not sure if there are plans to look at the English legislation too

Q7. Q6: What are your views on the potential new provisions that could be included in an interpretation Act for Wales, set out in Chapter 8?

These provisions are a genuine attempt at resolving the issues around the interpretation of Welsh legislation but do not cover everything at this stage

Q8. Q7: Are there any extra new provisions, to those set out in Chapter 8, that you would wish to include in an interpretation Act for Wales?

No

Q9. Q8: What are your views on the other matters that could be dealt with in an interpretation Act for Wales, set out in Chapter 9?

It would be very important to deal with the issues of mutations in the Welsh language and that variations of that particular word due to grammatical rules would come within the definition. The wording used by the Hong Kong legislature dealing with this point is useful

Q10. Q9: We would like to know your views on the effect developing an interpretation Act for Wales could have on the Welsh language, in particular in respect of: i) helping people to use Welsh, and ii) treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Wholly positive. It can only be a good thing that a body of legislation within Wales can be interpreted in Welsh and assist Welsh speakers to pursue legal remedies in their language of choice. We would however caution that translators would need to be aware of specific legal phrases which may be unusual and which may have a different meaning in everyday speech. For example we came across a translated lease which contained the very common legal term "to wash stop and distemper" meaning to white wash a building. In the Welsh version the word distemper appeared as the translation of "dog's disease" which was clearly incorrect. Whilst this may be an amusing example, the potential for misinterpretation is great and it may be that Welsh speaking lawyers as well as translators will be required more than at present

Q11. Q10: Please also explain how you believe the proposed interpretation Act for Wales could be formulated or changed so as to have: i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

See question 9 above

Q12. Q11: We have asked a number of specific questions. If you have views on any related issues that we have not specifically addressed, please set them out here:

*No Response*

## Page 2: Submit your response

Q13. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

[REDACTED]

Organisation (if applicable)

[REDACTED]

Q14. If you want to receive a receipt of your response, please provide an email address.  
Email address

[REDACTED]

Q15. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

