

MODEL RULES OF INTERPRETATION

INDEX

PART 1—GENERAL INTERPRETATION RULES	1
1 Principles of interpretation	1
2 Interpretation best achieving purpose or object	1
3 Material that is part of an instrument	1
4 Use of extrinsic material in interpretation	1
5 Changes in style not to affect meaning	1
6 Examples	2
7 Parts of speech and grammatical forms	2
8 Rules as to gender and number	2
9 References to instruments	2
10 Compliance with forms.	2
PART 2—POWERS, FUNCTIONS AND DUTIES.	2
11 Meaning of ‘may’, ‘shall’, ‘must’, ‘will’ and ‘is to’	2
12 Power to appoint	2
13 Power to make instrument includes power to revoke or amend	3
PART 3—TIME	3
14 Calculating time.	3
15 Expressions of time	3
PART 4—AMENDMENT OR REPEAL OF INSTRUMENTS	4
16 Effect of repeal or amendment	4
17 Inserting definitions into provisions or inserting items into lists or tables	4
18 Numbering consequential on insertion of new provisions	4
PART 5—GENERAL	5
19 Interpretation	5
APPENDIX	5
Licence.	5
How to apply these rules to your instrument	6
Revision history	6

PART 1—GENERAL INTERPRETATION RULES

1 Principles of interpretation

The general principles of the law and of legal interpretation apply despite any omission in this instrument.

2 Interpretation best achieving purpose or object

In interpreting an instrument, the interpretation that would best achieve the purpose or object of the instrument (whether or not that purpose or object is expressly stated in the instrument) is to be preferred to each other interpretation.

3 Material that is part of an instrument

- (1) All material from and including the first section of an instrument to the end of:
 - (a) if there are one or more Schedules to the instrument—the last Schedule to the instrument; or
 - (b) otherwise—the last section of the instrument;is part of the instrument.
- (2) The following are also part of an instrument:
 - (a) any preamble to the instrument; and
 - (b) any heading to a provision appearing before the first section of the instrument; and
 - (c) any note appearing before the first section of the instrument.
- (3) To avoid doubt:
 - (a) headings to provisions within an instrument; and
 - (b) notes and examples to provisions within an instrument; and
 - (c) punctuation within an instrument;are part of the instrument and may be used in its interpretation.

4 Use of extrinsic material in interpretation

In interpreting an instrument, consideration may be given to any matter or document that is relevant.

Example: Consideration may be given to punctuation, speeches, reports or explanatory memoranda.

5 Changes in style not to affect meaning

If:

- (a) an instrument, law or anything similar expresses an idea in particular words; and
- (b) another instrument appears to have expressed the same idea in different words for the purpose of using a clearer style;

the ideas are not different merely because different words are used.

6 Examples

If a provision of an instrument includes an example, the example is not exhaustive, and may extend the operation of the provision.

7 Parts of speech and grammatical forms

In any instrument where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

8 Rules as to gender and number

In any instrument:

- (a) words importing a gender include every other gender; and
- (b) words in the singular include the plural; and
- (c) words in the plural include the singular.

9 References to instruments

A reference to an instrument, unless the contrary intention appears, is a reference to the instrument as may be amended or replaced, and in force from time to time.

10 Compliance with forms

If an instrument prescribes a form, then strict compliance with the prescribed form is not required and any form in or to the like effect of the prescribed form is sufficient.

PART 2—POWERS, FUNCTIONS AND DUTIES

11 Meaning of ‘may’, ‘shall’, ‘must’, ‘will’ and ‘is to’

If, in connection to conferring or exercising a power:

- (a) the term ‘may’ is used—the power may be exercised, or not, at the discretion of the person exercising the power; and
- (b) the term ‘shall’, ‘must’, ‘will’ or ‘is to’ is used—the power must be exercised.

12 Power to appoint

- (1) If an instrument confers a power to appoint a person to an office, the power, unless the contrary intention appears, includes a power:
 - (a) to appoint a person to act in the office until a person is appointed to the office, or during a vacancy in the office; and
 - (b) to remove a person appointed to the office; and
 - (c) to suspend a person appointed to the office and to appoint another person temporarily in the place of the person so suspended;

- (d) if the holder of the office is absent or, for any other reason, unable to perform the functions and duties of the office, to appoint a person to act in place of the holder;
 - (e) if the holder of the office is, for any reason, unable to perform a particular function or duty on a particular occasion or in relation to a particular matter, to appoint a person to perform that function or duty on that occasion or in relation to that matter.
- (2) In relation to an appointment of a person (the **appointee**) made under subsection (1):
- (a) the appointer may determine the terms and conditions of the appointment; and
 - (b) the appointer may terminate the appointment at any time; and
 - (c) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer.

13 Power to make instrument includes power to revoke or amend

If an instrument confers the power to make a subordinate instrument, the power, unless the contrary intention appears, includes a power, exercisable in the same manner and subject to the same conditions or limitations (if any), to repeal, revoke, rescind, amend, alter or vary a subsidiary instrument made in the exercise of that power.

PART 3—TIME

14 Calculating time

A period of time referred to in an instrument that is of a kind mentioned in column 1 of an item in the following table is to be calculated according to the rule mentioned in column 2 of that item:

Column 1	Column 2
If the period of time:	then the period of time:
1. is expressed to occur between 2 days	includes both days.
2. is expressed to begin at, on or with a specified day	includes that day.
3. is expressed to continue until a specified day	includes that day.
4. is expressed to end at, on or with a specified day	includes that day.
5. is expressed to begin from a specified day	does not include that day.
6. is expressed to begin after a specified day	does not include that day.
7. is expressed to end before a specified day	does not include that day.

15 Expressions of time

In an instrument, unless the contrary intention expressly appears:

midnight, in relation to a particular day, means the point at time at which that day ends.

month means a calendar month.

year, without qualification, means a period of twelve months.

calendar year means the period of twelve months ending at midnight on 31 December.

PART 4—AMENDMENT OR REPEAL OF INSTRUMENTS

16 Effect of repeal or amendment

The repeal or amendment of an instrument does not, unless the contrary intention expressly appears:

- (a) revive anything not in force or existing at the time when the repeal or amendment takes effect; or

Example: The repeal of an instrument that repealed an instrument does not revive the old instrument.

- (b) affect the previous operation of the instrument (including any amendment made by the instrument), or anything duly done or suffered under the instrument; or

Example: The repeal or amendment does not affect a right, privilege, obligation, liability, immunity, indemnity, penalty, forfeiture or punishment conferred by or relating to the instrument.

- (c) affect any matter relating to anything in paragraph (b).

Example: The repeal or amendment does not affect an investigation, legal proceeding or remedy relating to anything in paragraph (b).

Any such matter may be dealt with as if the instrument had not been repealed or amended.

17 Inserting definitions into provisions or inserting items into lists or tables

- (1) If an instrument inserts a definition in a provision of another instrument, but does not specify where in that provision the definition is to be inserted, it must be inserted in the appropriate alphabetical position.

- (2) If an instrument inserts an item into a list or table in a provision of another instrument, but does not specify where in that list or table the item is to be inserted:

- (a) if the items in the list or table are numbered, the item must be inserted in the appropriate position by number; or

- (b) if, immediately before the insertion, the list or table was arranged alphabetically, the item must be inserted in the appropriate alphabetical position.

18 Numbering consequential on insertion of new provisions

If a section that is not divided into subsections is amended by the insertion of one or more subsections at the end of it, the section as in force immediately before the commencement of the amendment is taken to be subsection (1) of that section and to be amended by the insertion of the expression '(1)' at the beginning of it.

PART 5—GENERAL

19 Interpretation

In this instrument:

instrument includes:

- (a) this instrument; and
- (b) any instrument to which these rules of interpretation apply; and
- (c) any instrument referenced by or relevant to an instrument; and
- (d) a part or provision of an instrument; and
- (e) a Schedule to an instrument; and
- (f) a subordinate instrument; and
- (g) legislation.

law includes the common law.

provision includes:

- (a) a Chapter, Part, Division or Subdivision; and
- (b) a section, subsection, paragraph, subparagraph or subsubparagraph; and
- (c) a table, item or column; and
- (d) a diagram, example or note; and
- (e) any other unit contained within an instrument.

repeal: the repeal of an instrument includes:

- (a) a repeal effected by implication; and
- (b) the expiry, lapsing or cessation of effect of the instrument; and
- (c) the abrogation or limitation of effect of the instrument; and
- (d) the exclusion of the application of the instrument to any person, subject matter or circumstance.

section includes a corresponding unit of an instrument.

Example: **section** includes a regulation, rule or order.

subordinate instrument means an instrument made under another instrument.

APPENDIX

Licence

This document is licensed under the Creative Commons Attribution-ShareAlike 4.0 International licence.

How to apply these rules to your instrument

Include a provision giving effect to these model rules by reference, or adopt these model rules as an instrument of your organisation.

Example: ‘The *Model Rules of Interpretation* (revision 1, 21 September 2019), published at <https://yingtongli.me>, apply to the interpretation of this instrument.’

Revision history

Column 1	Column 2
Date	Sections changed
1. 21 September 2019	Initial revision