

MODEL RULES OF INTERPRETATION

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PART 1—GENERAL RULES

1 Principles of interpretation

To the extent that they are not inconsistent with these rules, the general principles of the law and of legal interpretation apply despite any omission in these rules.

2 Interpretation best achieving purpose or object

When 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 and whitespace within an instrument;are part of the instrument and may be used in its interpretation.

4 Use of extrinsic material in interpretation

When interpreting an instrument, consideration may be given to anything that is relevant, whether or not it is part of the instrument.

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

5 Changes in style not to affect meaning

If:

- (a) a relevant document, law or anything similar expresses an idea in particular words; and
- (b) an 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 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 documents

If an instrument contains a reference to a document, or part of a document, and the document or part is changed, replaced, repealed and re-made (with or without modifications), or in any other way superseded, then the reference is a reference to the corresponding document or part as superseded.

10 Compliance with forms

If an instrument prescribes a form, then strict compliance with the prescribed form is not required and any form analogous to the prescribed form is sufficient.

PART 2—POWERS, FUNCTIONS AND DUTIES

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

If, when 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 includes a power:
 - (a) to appoint a person to act in the office at any time; and
 - (b) to remove or suspend a person appointed to the office; and
 - (c) to appoint a person to act in place of the holder, generally or in relation to particular functions, duties or matters.

- (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 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 subordinate instrument made under that power.

PART 3—TIME

14 Calculating time

A period of time that is referred to in an instrument and described in the following table is to be calculated according to the table:

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:

midnight, in relation to a particular day, means the point in time when 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:

- (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 into a provision, 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, 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) an instrument contains a section that is not divided into subsections; and
- (b) the section is amended by the insertion of one or more subsections at the end of it;

the original section is taken to be subsection (1) of that section and to be amended by the insertion of '(1)' at the beginning of it.

PART 5—GENERAL

19 Interpretation

- (1) In these rules of interpretation:

document includes:

- (a) an instrument; and
- (b) any document referenced by or relevant to an instrument;

and includes any part or provision of such a document.

Example: *document* includes legislation referenced by an instrument.

instrument means an instrument that these rules of interpretation apply to, and includes any part or provision of such an instrument.

- (2) In these rules of interpretation:

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 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 a document made under an instrument.

- (3) These rules of interpretation apply to the interpretation of this instrument itself.

20 Rules do not apply if contrary intention appears

When interpreting an instrument, these rules of interpretation do not apply to the extent that the contrary intention appears in the instrument.

21 Ambiguity not required

When interpreting an instrument, each of these rules of interpretation applies regardless of whether there would otherwise be ambiguity.

APPENDIX

Licence

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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 4, 15 January 2020), 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
2. 24 September 2019	Part 1 (heading); ss 4, 5, 6, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20
3. 2 November 2019	ss 1, 2, 3, 4, 9, 21
4. 15 January 2020	ss 9, 13, 19