

## Chapter 13 Statutory interpretation and the Interpretation Act 1999

In reaching an interpretation of an Act, a court will rely on certain rules and conventions of statutory interpretation as well as the fundamental principles of law (see [Chapter 4](#)). The [Interpretation Act 1999](#) is the primary source of the rules of statutory interpretation in New Zealand, although some of its provisions are supplemented by the common law.<sup>33</sup>

An awareness of the general principles of statutory interpretation and also the specific provisions of the Interpretation Act 1999 will assist in providing sufficient interpretive aids in the legislation and reduce the risk of an unexpected judicial interpretation.

### Guidelines

#### 13.1 Have the key principles of statutory interpretation been considered?

*The primary rules of statutory interpretation should be considered when designing legislation.*

The meaning of an enactment must be ascertained from its text and in light of its purpose (see section 5 of the Interpretation Act 1999). So:

- generally, words in an enactment will be given their natural or ordinary meanings;
- however, an Act must be read as a whole and other factors, such as the surrounding words, the subject matter of the relevant part of the Act, and the overall scheme of the Act may sometimes call for a different interpretation. The use of an interpretation section can greatly reduce the scope for ambiguity;
- other features of the enactment, such as the table of contents, headings, marginal notes, diagrams, graphics, examples and explanatory material, as well as the organisation and format of the Act, may also be considered as part of the interpretation task; and
- the purpose provision of the Act is a key aid to interpretation. If possible, every provision in the Act should be interpreted consistently with the purpose provision. The large pool of sources that the courts will draw on in interpreting an Act highlights the need to ensure that the Act has internal coherence, and a clear purpose or policy objective that is adequately reflected in the provisions of the Act and any explanatory material.

Some Acts, such as Treaty settlement Acts (see [Chapter 5](#)) and the [Parliamentary Privilege Act 2014](#), have specific provisions that direct the reader how to interpret them.

An enactment applies to circumstances as they arise (see section 6 of the Interpretation Act

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<sup>33</sup> The [Legislation Bill](#) currently before the House will repeal the Interpretation Act 1999 and replicate most of its key provisions.

1999): If possible legislation should be “future-proofed” by ensuring that it is flexible enough to properly address foreseeable developments in technology or society generally.

An enactment does not have retrospective effect (see section 7 of the Interpretation Act 1999 and [Chapter 12](#)). Interpretation consistent with the [New Zealand Bill of Rights Act 1990](#) is to be preferred wherever possible (see [Chapter 6](#)).

**Common law rules of statutory interpretation**—Although many of the fundamental principles of statutory interpretation are reflected in the Interpretation Act 1999, a number continue to exist in the common law. One such principle is that if a list of specific things is followed by a general description of those things, the general description is presumed to be restricted to the same class as the specific references. This principle is referred to as *ejusdem generis*. Another example is the presumption that Parliament will intend to legislate consistently with fundamental human rights and New Zealand’s international obligations.

[Link to supplementary material: [Designing purpose provisions and statements of principle](#)]

### **13.2 Have the specific provisions of the Interpretation Act 1999 been considered?**

*Legislation should be consistent with the Interpretation Act 1999.*

The following paragraphs are intended to raise awareness of the kinds of issues that the Interpretation Act 1999 provides for and that therefore do not need to be restated in the new legislation. The paragraphs do not analyse the provisions of the Interpretation Act 1999 in depth, nor explain how the common law supplements those provisions.

The Interpretation Act 1999 contains provisions relating to:

- the date and time of day when Acts and regulations come into force (sections 8 to 10);
- the circumstances in which a power granted by an Act may be exercised before that Act comes into force (section 11);
- when a power may be exercised by a delegate (examples include what powers are deemed to be held by someone granted the power to appoint a person to an office, the power to make or issue secondary legislation and when a person may exercise a power to correct minor errors in the prior exercise of that power) (sections 12 to 16);
- the effect of repealing legislation on existing rights, powers and situations, including on things done under the repealed legislation (for example, rules concerning the fate of enactments made under the repealed legislation, powers previously exercised under the repealed enactment, and how to treat references to the repealed enactment in other legislation) (sections 17 to 22);
- the fact that legislation will not bind the Crown unless the enactment expressly says so (although the practice in New Zealand is for all legislation to apply to the Crown) (section 27) (see [Chapter 11](#));

Any of these provisions can be overridden, extended, or restricted in a particular case but that should be done deliberately, using clear language, and only if necessary.

[Link to supplementary material: [Guidance on commencement clauses](#)]

### **13.3 Have the specific definitions and meanings of expressions in Part 5 of the Interpretation Act 1999 been considered?**

*Legislation should apply the definitions in Part 5 of the Interpretation Act 1999. New legislation should not restate those definitions.*

Part 5 of the Interpretation Act 1999 defines what certain words and phrases mean. It is not necessary to restate these rules in new legislation, although it may be helpful to readers to include a flagging provision identifying that the following words and phrases will have the meaning given to them by the Interpretation Act 1999:

- Act, enactment, Order in Council, Proclamation, regulations
- commencement
- Commonwealth country, part of the Commonwealth
- de facto partner, de facto relationship
- enactment
- Gazette
- Governor-General in Council
- Minister and consular officer
- month and working day (but not “week”)
- prescribed
- public notice, public notification
- repeal
- rules of court
- writing
- words that use the prefix “step” (such as step-parent)
- definitions of “Act”, “Governor”, “land”, and “person” in enactments passed before the Interpretation Act
- New Zealand, North Island, South Island
- territorial limits of New Zealand, limits of New Zealand
- person

Again, particular Acts can define these words and phrases differently but only if necessary. See, for example, the definition of “public notice” in section 5 of the [Local Government Act 2002](#) and the many different statutory definitions of “working day”, including several that exclude the period from Christmas to mid-January.

Part 5 also includes rules for the interpretation of:

- words that denote the masculine gender used in enactments before enactment of the Interpretation Act 1999;

- the use of parts of speech and grammatical forms of words;
- the use of plural and singular words; and
- the calculation of time and distance.