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**ITS 25.4 - Inference from later Acts**

**When the legal meaning of an enactment is doubtful, subsequent legislation on the same subject may be relied on as persuasive authority as to its meaning.<sup>^1</sup>**

COMMENTS

Subsequent Act

Subsequent delegated legislation

**Subsequent Act**

When it appears that a legislative act is based on a particular interpretation of an earlier law, the question may arise whether this later perspective can be relied upon in interpreting the earlier law. Generally, later laws will not easily be taken to override the clear intent of previous legislation. It is crucial to recognize that, aside from its role in enacting laws, the legislature does not have the power to authoritatively interpret the law; that role belongs solely to the judiciary. The legislature can amend the law through binding legislation and may even declare its understanding of what the law is or was.

However, merely indicating that the legislature may have misunderstood a legal principle does not itself alter the rule. Said as follows:

"The beliefs or assumptions of those who frame Acts of Parliament cannot make the law."<sup>^2</sup>

When the meaning of a law is unclear, a later Act might be viewed as persuasive if it demonstrates that the legislature interpreted the existing law in a specific way. Likewise, if an Act

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<sup>1</sup> Bennion 2020 s 24.19

<sup>2</sup> IRC v. Dowdall O' Mahoney & Co Ltd (1952 AC 401) cited in Bennion 2020 p 769

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is passed that would only be unnecessary under one of two conflicting interpretations of existing law, it may suggest that the alternate interpretation is correct.^{^3} A later Act may also be relevant even if it has not yet come into force.^{^4}

This principle was established as follows:

‘It is clearly established in *Attorney-General v Clarkson* [1900] 1 QB 156 that subsequent legislation on the same subject may be considered for interpreting an earlier Act when that Act is ambiguous. Although subsequent legislation cannot alter previous legislation if it is based on an incorrect interpretation of earlier law, it may clarify the intended interpretation if ambiguity exists.’^{^5}

This statement was endorsed as a correct interpretation of the law, provided that "any ambiguity" refers to a phrase that is reasonably and equally open to various interpretations.^{^6}

Subsequent delegated legislation

With respect to later delegated legislation, it seems that the interpretive use of subsequent legislation may generally apply to primary legislation rather than executive-made delegated legislation. This distinction makes sense, as many of the interpretive justifications above may not apply when dealing with executive, rather than legislative, enactments.^{^7}

³ *Murphy v Duke* [1985] QB 905 cited in Bennion 2020 p 769

⁴ *R (Secretary of State for the Home Department) v Assistant Deputy Coroner for Inner West London* [2010] EWHC 3098 (Admin) at 30) cited in Bennion 2020 p 769

⁵ *Cape Brandy Syndicate v. Inland Revenue Commissioners* (1921 2 KB 403) cited in Bennion 2020 p 769

⁶ *Ormond Investment Co Ltd v Betts* (1928 AC 143) cited in Bennion 2020 p 769

⁷ Bennion 2020 p 770