

Interpreting Taxing Statutes # 108 – Consolidation Acts

There is a presumption that consolidation is not intended to change the law and so recourse may be had to earlier legislation and case law. This rule applies not only to pure consolidation but also to consolidation with amendments so far as the provisions of the consolidation Act are unaffected by those amendments. [Ben 24.7]

SYNOPSIS

The starting point in construing a consolidation is to approach it in the same way as any other Act, without reference back to the provisions it has replaced or judicial decisions on their meaning. The purpose of consolidation is to gather together disparate provisions in a single, coherent and easily accessible legislative text. The benefit to be derived would be significantly undermined if, in order to construe a consolidation Act, it were routinely necessary to expend time, effort and expense investigating previous legislation and case law.

Where, however, real doubt arises as to the legal meaning of a provision in a consolidation Act, it is legitimate to consider its antecedents and authorities on them. Here a subordinate presumption comes into play that ‘a consolidation Act (in so far as it merely-re-enacts) does not change the law’. [Farrell v Alexander [1977] AC 59]

Consolidation with amendments

The starting point described above applies not only to pure consolidation but also to consolidation with amendments. Here too it is clear that ‘courts should not routinely investigate the statutory predecessors of provisions in a consolidation statute.’

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[R v Secretary of State for the Environment, Transport and the Regions, ex p Spath Holme Ltd [2001] 2 AC 349] But in cases of doubt it will be necessary to determine to what extent the Act is intended as a re-enactment and to what extent it is intended to introduce changes. The presumption that a consolidation Act does not change the law applies only in so far as the provisions are unaffected by those changes.

### ***Delegated legislation***

The approach described above also applies to delegated legislation. [Gluck v Secretary of State for Housing, Communities and Local Government [2020] EWHC 161 (admin) at]