

# **INTERPRETATION AND LEGISLATIVE REFORM (SCOTLAND) ACT 2010**

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## **EXPLANATORY NOTES**

### **THE ACT - BACKGROUND**

#### **Part 1: Interpretation**

##### ***Section 20 - Application of Acts and instruments to the Crown***

43. This provision introduces a substantive change to the law. At present, the Crown is bound only by a statutory provision which makes express provision or by necessary implication. This section provides for a new default position - the Crown will be bound by an ASP or a Scottish instrument unless the provision expressly exempts it. This section also abolishes the common law rule under which the Crown is bound by an ASP or Scottish instrument by necessary implication. The position as to which Acts of Parliament and instruments made under them bind the Crown remains unaffected by this provision.
44. In view of this provision, section 1(2)(b) is disapplied in relation to section 20 by section 1(3). This is necessary because if section 1(2)(b) did apply it would undermine the effect of section 20(2) (the effect of which is to abolish the common law rule under which the Crown is bound by legislation by necessary implication).