

The Legal System and Services of England and Wales Second edition

Changes to the first edition

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The text between the end of 'Practice Example 2.1' and 'Key term: secondary legislation' is replaced with:

Legislation made by the Welsh Parliament

The Welsh Parliament, commonly known as Senedd Cymru or the Senedd, is the democratically elected body that represents the interests of Wales. Part of the Senedd's role is to make laws for Wales. The Senedd is able to pass Acts on any matters that are *not* reserved to the UK Parliament by the Government of Wales Act 2006 (as amended by the Wales Act 2017). Such Acts are referred to as Acts of Senedd Cymru.

Revision tip

It is important that you understand the law-making powers of the Senedd. For a more detailed discussion of this topic, refer to *Revise SQE: Constitutional and Administrative Law*, Chapter 3.

Secondary legislation is law created by government ministers (or other bodies) by virtue of powers given to them by an Act of Parliament (referred to as the 'parent Act'). It is also known as 'delegated' or 'subordinate' legislation. In Wales, ministers in the Senedd make secondary legislation using powers given to them in enabling acts. In both England and Wales, statutory instruments (SIs) are the most common form of secondary legislation.

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New text is added to the top of the page:

Territorial application of legislation to England and Wales

When determining the extent of an Act of Parliament, it is important to remember that the UK has three separate legal systems: England and Wales, Scotland, and Northern Ireland. If an Act of Parliament *extends* to a jurisdiction, it forms part of the law there. An Act of Parliament may *extend* to the whole of the UK or to one or more of the three jurisdictions within the UK. An Act will usually state which part(s) of the UK it extends to. If an Act of Parliament does not say anything about its extent, it usually extends to the whole of the UK. Acts of Senedd Cymru can *only* extend to England and Wales.

In order for an Act of Parliament to have practical effect in England or Wales, it must extend *and* 'apply' there. The key point is that an Act of Parliament (or specific parts within such an Act) that extends to England and Wales may apply: 1) in relation to both England and Wales, 2) *only* in relation to England, or 3) *only* in relation to Wales. Put simply, England and Wales are treated as distinct jurisdictions when determining the application of primary legislation. Primary legislation which is passed by the Senedd can *only* apply to Wales. For this reason, Senedd Acts do not typically include express provisions concerning application.

Revision tip

Make sure that you understand the difference between the terms 'extent' and 'application'. Remember that an Act must extend *and* apply to England/Wales if it is to have practical effect there.

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New second and third bullet points are added:

- Acts of Parliament may extend to the whole of the UK or to any of the three legal jurisdictions of the UK. When determining the extent of an Act of Parliament, remember that England and Wales are classified as a single jurisdiction.
- Acts of Parliament (or provisions within such Acts) which *extend* to England and Wales may *apply* to both England and Wales, or they may apply only in relation to either England or Wales. Acts of Senedd Cymru extend to England and Wales but can *only* apply to Wales.

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Under the heading 'SQE Assessment Advice', the fifth bullet point is removed ('appropriate sources of information on financial services').