

Secondary legislation

Not all written laws are contained in acts of parliament (whether the UK, Welsh or Scottish parliaments or the Northern Ireland Assembly). Such laws are referred to as secondary legislation.

Increasingly, ministers rely on secondary legislation. This means legislation not directly voted on. The most common type of legislation is the statutory instrument. Most statutory instruments are passed by parliament without the need for a vote. We may wonder why parliament passes laws without voting on them. Isn't that what we send our MP to London or Cardiff to do? The problem is that no act of parliament, no matter how detailed, can take every situation into account.

New scientific discoveries are constantly being made, new safety regulations are sometimes urgently required and there are constant changes and developments in politics, all of which can affect the type of laws being introduced. Since it is not possible to draft 'everything' into an act, most parliamentary acts these days are what are termed 'enabling' acts.

An enabling act allows the minister to make changes to laws without parliament having to vote. Dictators beware! The minister's powers are not unlimited and legal action can always be taken against unreasonable or improper changes. Put bluntly, ministers must not be seen to embarrass the government by trying to exceed their powers.

Interesting facts about laws

Between 1997 and 2007 Parliament created more than 3,000 new criminal offences, approximately one for every day that Prime Minister Blair was in power. Most of this legislation was introduced via SIs. Most SIs are not harmful to the public, but if a Minister has a power, especially a power to criminalise a person, there is always the possibility of misusing that power because, unless somebody in authority notices the abuse, there is no parliamentary scrutiny. There is, therefore, a danger of what is termed ministerial overreach. Many of the new laws in that period were also trivial. Between 1997 and 2007 it became an offence to enter the Hull of the Titanic, to leave your home without nominating a neighbour to turn off your burglar alarm, to assault a court officer, to provide unauthorised air traffic services and, perhaps strangest of all, to import Polish potatoes. Many of these offences already had adequate provision elsewhere in the statute book, in addition to being absurd or otherwise inappropriate. Not many people would think of leaving the comfort of their

hearthstone to traverse several miles under sea.....and who would want a neighbour to risk life and limb by entering a property while a burglar might still be on the premises? Assaulting anyone, no matter who they are, is an offence – so, why particularise it in that way? And, what on earth is wrong with Polish potatoes?

Last point

Although the UK has left the European Union, don't expect all European laws to disappear overnight. Most of them will be here for a long time to come, or be replaced with identical or very similar British legislation.