

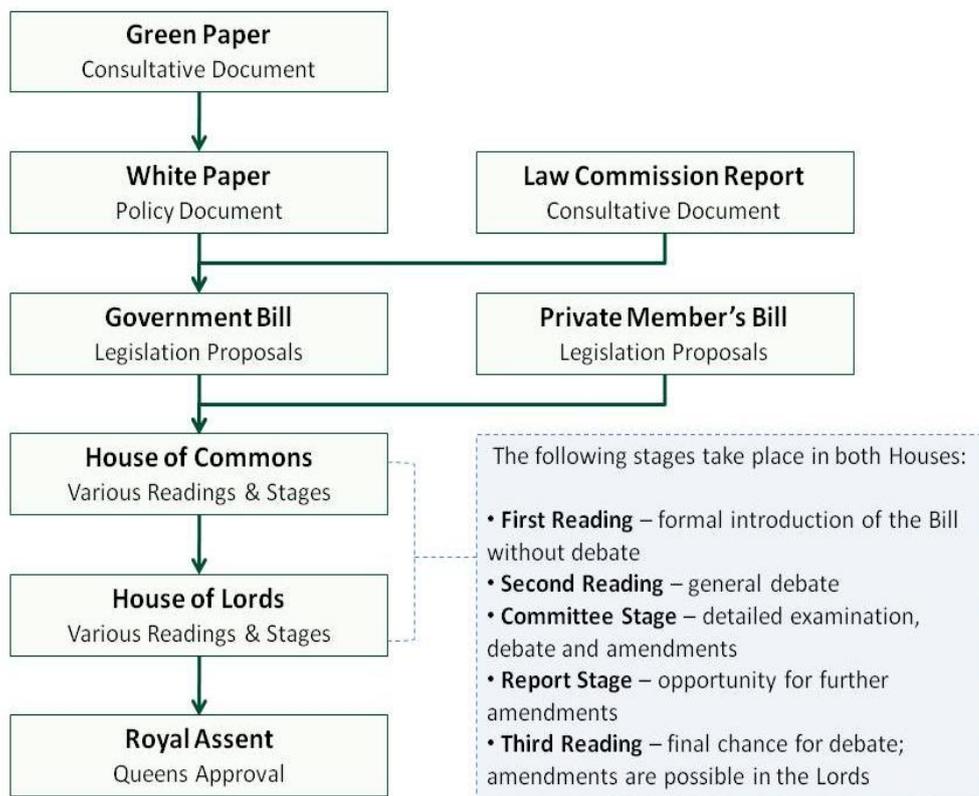
# Understanding UK Legislation

## Constitution

The UK does not have a single, written constitution - it has often been described as 'partly written and wholly uncodified'. Large parts of it are written down, much of it in the laws passed in Parliament. These laws come in the form of legislation which is applied to the whole of the UK (unless otherwise stated).

## Stages of Passing Law

Before looking at legislation in detail, you need to be aware of the various stages it goes through before becoming law:



- Legislation originates in proposals issued by government departments (Green and White Papers) and reports of the Law Commission
- Draft legislation comes in the form of Bills. They have to go through various stages in the House of Commons and House of Lords and receive the Royal Assent before becoming Law

## Pre-Legislative Documents

It is important to understand the background to why a piece of legislation came about.

It is usually the result of a lengthy consultation process which may take years. Consultation can be with interested parties such as professional bodies, voluntary organisations and pressure groups.

Various research and inquiries may have been conducted by the government and official bodies to see whether a new piece of legislation is needed. This type of material is known generically as pre-legislative material and can consist of parliamentary and non-parliamentary material.

## Command Papers

- **Green Papers**
  - These precede White Papers and are consultation papers which set out government proposals that are still taking shape. Comments are invited from persons or bodies within a certain consultation period.
- **White Papers**
  - These follow a Green Paper and sets out the governments' firm policy in light of the consultation

For more information, see the *National Archives* website

(<http://www.nationalarchives.gov.uk/information-management/our-services/command-papers.htm>)

Command Papers (from 2004 onwards) are available from TSO Official Documents

(<http://www.official-documents.gov.uk/menu/browseDocuments.htm>)

## Debates of Parliament

The proceedings and debates which take place in the House of Commons and House of Lords are published in *Hansard* – an official collection

These listings can be searched to find out what was discussed in relation to proposed legislation.

Hansard is available from:

- Parliament UK (<http://www.parliament.uk/business/publications/>)
  - House of Commons Debates from 1989 onwards
  - House of Lords Debates from 1995 onwards

## House of Commons and House of Lords Papers

These papers include reports, minutes and statistics of committees.

They are available from Parliament UK (<http://www.parliament.uk/business/publications/>)

## Non-Parliamentary Publications

These include reports and consultation papers from government departments and agencies such as The Department of Health, Ministry of Defence, and Ministry of Justice etc.

Most papers are available from the website of each department or agency (<http://www.direct.gov.uk/>)

## Law Commission Reports

The Law Commission is an independent body set up in 1965 to keep the law of England and Wales under review and recommend reform where needed. They carry out consultations with the wider public and interested parties and experts depending on the area of law. The Commission will then compile a report of their findings and submit it to the Lord Chancellor.

One of their main aims is to ensure that the law is fair, modern, simple and as cost-effective as possible. They also wish to eliminate anomalies within the law, to repeal obsolete and unnecessary enactments and reduce the number of separate statutes.

There are two main series of publications - Consultation Reports and Final reports. The Law Commission covers various subjects including Commercial and Common Law, Contract Law, Criminal Law, Damages, Family Law, Housing Law, Property, Family and Trust Law, Public Law, Statute Law Revision and Tort.

The Law Commission reports are available from:

- Law Commission website from 1995 onwards (<http://www.lawcom.gov.uk/>)
- BAILII from 1965 to 1994 (<http://www.bailii.org/ew/other/EWLC/>)

## Draft Legislation (Bills)

Proposals for new law or changes in existing law come in the form of Bills. There are hundreds of Bills put forward to Parliament each year and only a few of them become actual law.

There are 3 types of Bills:

- Public Bills
  - Changes the law as it applies to the general population and are the most common type of Bill introduced in Parliament.
- Private Bills
  - Only change the law as it applies to specific individuals or organisations, rather than the general public.
- Hybrid Bills
  - A mix of the characteristics of Public and Private Bills.

Bills are introduced in either the House of Commons or House of Lords for examination, discussion and amendment. When both Houses have agreed on the content of a Bill it is then presented to the reigning monarch for approval (known as Royal Assent). Once Royal Assent is given a Bill becomes an Act of Parliament and is law.

A Bill must be given 3 readings in both the House of Commons and the House of Lords before it can be presented for Royal Assent

See the *UK Parliament* website (<http://www.parliament.uk/about/how/laws/stages.cfm>) for more information on the procedure a Bill goes through.

Bills are available from UK Parliament ([http://www.parliament.uk/business/bills\\_and\\_legislation.cfm](http://www.parliament.uk/business/bills_and_legislation.cfm))

## Types of Legislation

Parliament is the supreme legal authority in the UK and only Parliament has the authority to enact any law it wishes. Such legislation is superior to all other sources of law and may not be challenged in courts. Legislation splits into Primary Legislation and Delegated Legislation where:

- **Primary Legislation**
  - Includes Acts of Parliament or Statutes (the terms are interchangeable) and enacted by Parliament. Statutes lay out Parliaments general intention in a particular field.
- **Delegated Legislation**
  - Includes Statutory Instruments and are made by people acting under the authority of Parliament under powers conferred by Acts to fill in the detail - setting out exactly how the Acts will work.

## Primary Legislation (Acts)

An Act of Parliament creates a new law or changes an existing law. An Act is a Bill approved by both the House of Commons and the House of Lords and formally agreed to by the reigning monarch (known as Royal Assent). Once implemented, an Act is law and applies to the UK as a whole or to specific areas of the country. Once an Act is in force, citizens can be prosecuted under an Act in court if they break the laws laid out within it.

Only Parliament may enact Acts of Parliament. Any such Acts are superior to all other sources of law and may not be challenged in the courts. Although Parliament passes the legislation it is the task of the judges to interpret it – this is known as Statutory Interpretation

## Becoming an Act

Bills are passed to the Queen who stamps them with her approval. This is known as granting Royal Assent. Some Acts will come into force as soon as they receive Royal Assent; other Acts will have the date included in the text of the Act; or enabling legislation may be required to introduce parts or all of the Act. Once an Act is in force, citizens can be prosecuted under an Act in court if they break the laws laid out within it.

The practical implementation of an Act is the responsibility of the appropriate government department, not Parliament. For example, laws relating to transport issues would come under the administration of the Department for Transport.

Parliament may investigate how the Act is implemented and consider changes. They can pass another Act or Secondary Legislation or repeal an Act so the provisions no longer apply.

## Types of Acts

There are 2 different types of Acts:

- **Public General Acts**
  - Covers areas of general interest which effect the whole population – e.g. Education Act
- **Local and Personal Acts**
  - Also known as Private Acts and apply to a specific location, group of people or an individual – e.g. Manchester Ship canal Act

## Citations of Acts

There are various ways to refer to an Act. You will need to be aware of these variations as it is important to be able to identify precise places within a specific Act.

### Citing entire Acts

Every Act published in a year is given its own individual number (known as Chapter Number).

Chapter Numbers give the order in which Acts gained Royal Assent in each year e.g.

#### Human Rights Act 1998 = Chapter Number 42

This means the Act was the 42<sup>nd</sup> Act to be passed in the year 1998

There are two ways to refer to an entire Act - by the **Short Title** or the **Year and Chapter Number** (known as the Official Citation). For example:

#### Human Rights Act 1998 = Chapter Number 42

This means the Act was the 42<sup>nd</sup> Act to be passed in the year 1998

## Citing Sections or Subsections of an Act:

The main body of the Act is divided into:

- Sections
- Subsections
- Paragraphs
- Subparagraphs

When referencing particular parts of an Act it is important to be precise. You should identify exactly where the wording of the law can be found.

Sections are abbreviated to “s.” although spoken in full. Subsections are cited in brackets. For example:

- Section 1 = s.1
- Section 1, Subsection 3 = s.1(3)

### Looking at an Act

Before you can start making effective use of legislation you will need to understand the layout of an Act and the information provided. For example, we will look at the *Finance Act 2006*

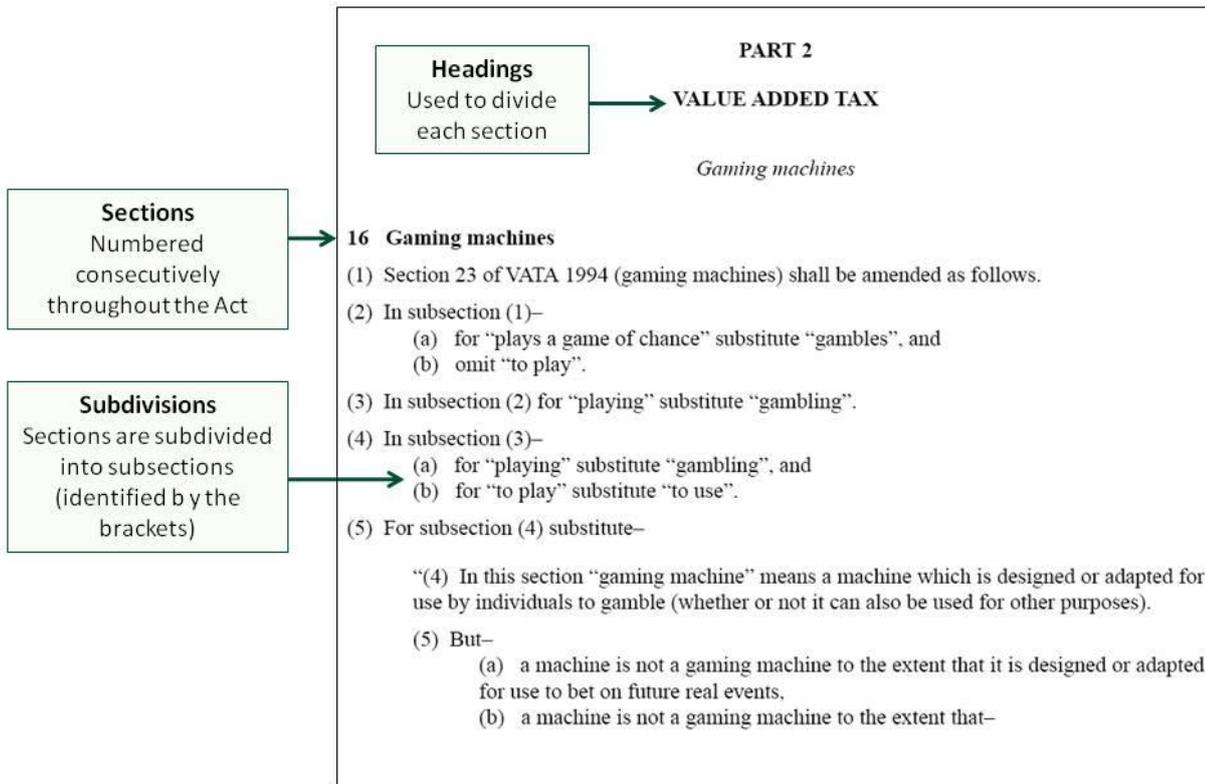
#### Looking at an Act – beginning:

The diagram illustrates the layout of the Finance Act 2006 with the following elements and callouts:

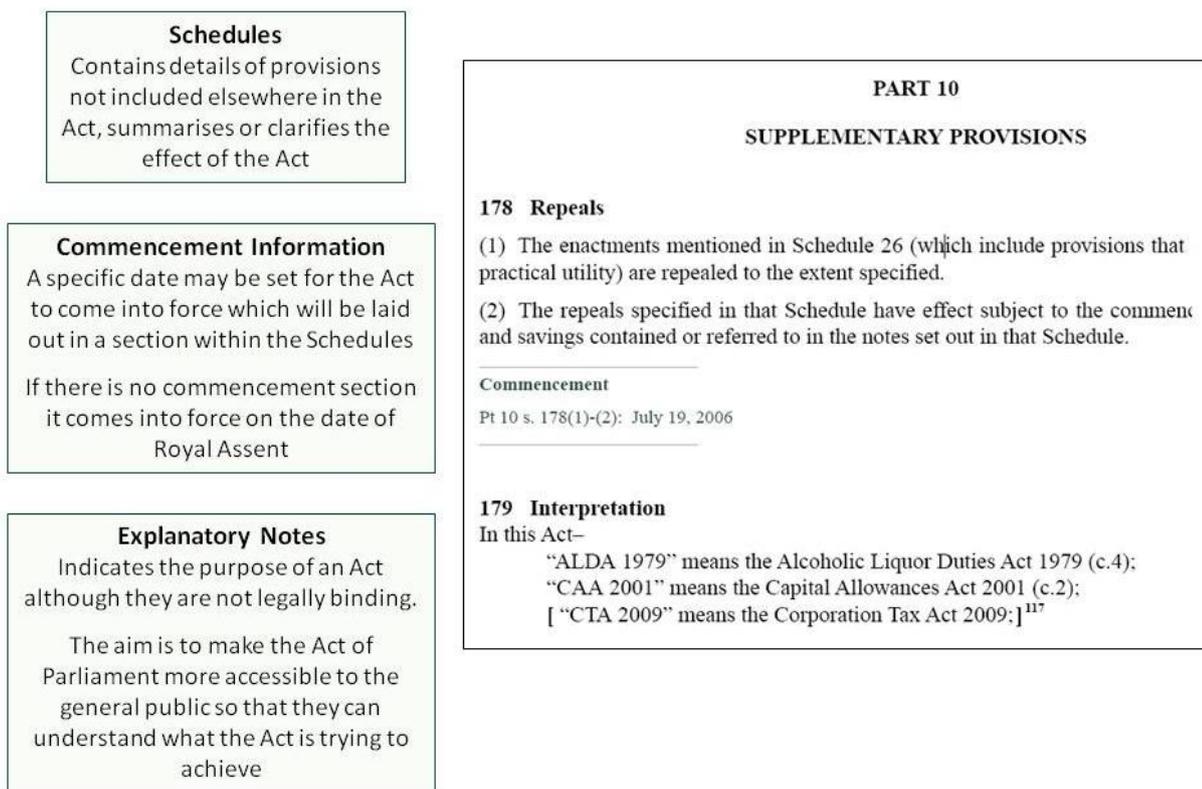
- Short Title:** Finance Act 2006
- Official Citation:** 2006 CHAPTER 25
- Long Title:** An Act to Grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with finance.
- Date of Royal Assent:** [19th July 2006]
- Enacting Formula:** WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Other text visible in the diagram includes: Thomson Reuters (Legal) Limited. and UK Statutes Crown Copyright. Reproduced by permission of the Controller of Her Majesty's Stationery Office.

**Looking at an Act – middle:**



**Looking at an Act – end:**



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## Finding Acts

*Note: with print versions, you cannot search for a specific Act within the library using the Library Catalogue you must look within certain collections of legislation.*

Acts can be amended - including addition, deletion or alteration of text. You need to decide whether you need the text of the Act in the original form it was passed? Or do you need the revised version of the Act incorporating any changes that have been made by subsequent legislation?

\*\*Use the *SOAS Library Catalogue* (<http://lib.soas.ac.uk>) to find collections in print - search for the title only

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed.

### Text as passed

- **Public General Acts & Measures** (*print only*)
  - “Official” version of Acts published as soon as the Act is passed from 1911 onwards
- **Law Reports: Statutes** (*print only - available at SOAS*)
  - Reproduce Public General Acts & Measures text in smaller, more easily handled format
- **Current Law Statutes Annotated** (*print only*)
  - Also provides summaries, definitions and descriptions of the background to an Act
  - Arranged chronologically from 1949 onwards
- **Westlaw UK** (*SOAS Database*)
  - Contains legislation from 1267 onwards
  - Contains historical versions as it stood at a point in time
  - Provides links to commentary (case law and journal articles)
- **Legislation.Gov.UK** (<http://www.legislation.gov.uk>)
  - Official source
  - Contains Primary Legislation from 1988 onwards
- **British and Irish Legal Information Institute (BAILII)** (<http://www.bailii.org/>)
  - A gateway to British primary legal materials which are freely available online
  - Contains legislation from 1215 onwards

### Text as amended

- **Halsbury’s Statutes** (*print only*)
  - Reprint all Acts in force in England and Wales
  - Contains extensive commentary giving judicial interpretation, leading case law, notes as to meaning and effect, notes of statutory instruments
  - Grouped in subject volumes bringing all Acts covering the same area together
  - Text is consolidated as it includes amendments and repealed sections are omitted
- **Westlaw UK** (*SOAS Database*)
  - Contains amended law in force from 1267 onwards
  - Contains links to repealed Acts and sections
  - Provides links to commentary (case law and journal articles)
- **Legislation.Gov.UK** (<http://www.legislation.gov.uk>)
  - Official Source
  - Contains Primary Legislation from 1988 onwards
  - Note that most Acts pre-1988 are available but do not include the revised version

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- **LexisLibrary (SOAS Database)**
    - Online version of Halsbury's Statutes
    - Contains law in force from 1266 onwards
    - Repealed Acts are omitted, but repealed sections are indicated.
    - Links to amending legislation, Halsbury's annotations and Explanatory Notes for Acts since 1999

## Delegated Legislation (Statutory Instruments)

Delegated Legislation is also known as subordinate or secondary legislation. It is usually concerned with detailed changes to the law made under powers from an existing Act. Statutory instruments form the majority of delegated legislation

Delegated legislation allows the Government to make changes to the law without needing to push through a completely new Act. The original Act would have provisions that allow for future delegated legislation to alter the law to differing degrees. These changes range from the technical, like altering the level of a fine, to fleshing out Acts with greater detail; often an Act contains only a broad framework of its purpose and more complex content is added through delegated legislation.

## Statutory Instruments

Approximately 3000 Statutory Instruments are issued each year, making up the bulk of delegated legislation. About two-thirds are not actively considered before Parliament and simply become law on a specified date in the future.

Statutory Instruments are usually drafted by the legal office of the Government Department concerned, often following consultations with interested bodies and parties whilst the SI is in draft. They are then "made" in the name of the person (usually a Secretary of State or Minister) authorised by the Parent Act (also known as the Enabling Act).

Statutory Instruments is a generic term which includes:

- Regulations
- Orders
- Measures
- Rules
- Schemes

The most popular form of a statutory instrument is a Commencement Order. These orders give the date when an Act commences and comes into force as a legal document.

## Citations of Statutory Instruments

There are a few ways to refer to a Statutory Instrument. You will need to be aware of these as it is important to be able to identify a Statutory Instrument from an Act.

### By Title

Statutory Instruments can be cited by Title which typically includes the words "*rules*", "*regulations*" or "*order*". For example:

Rules of the Supreme Court (Amendment No.2)  
Road Traffic (Owner Liability) Regulations  
Human Rights Act 1998 (Amendment) Order

## By Year / Number

Once an SI is approved, they are numbered sequentially within a year and are cited by "Year/Number". For example:

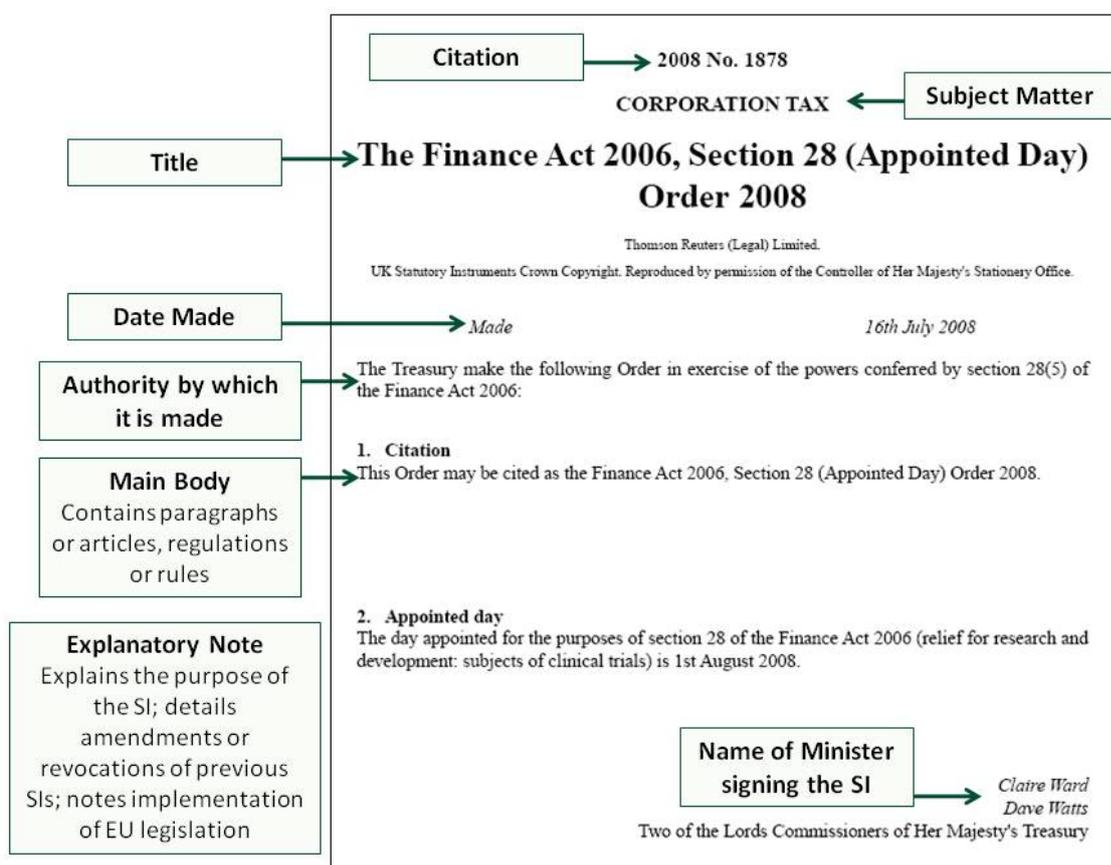
**Health and Safety (Fees) Regulations = 2006/336**

This means the SI was given number 336 for the year 2006

## Looking at Statutory Instruments

Before you can start making effective use of legislation you will need to understand the layout of a Statutory Instrument and the information provided.

For example, we will look at the *Finance Act 2006, Section 28 (Appointed Day) Order 2008*



## Finding Statutory Instruments

\*\*Use the *SOAS Library Catalogue* (<http://lib.soas.ac.uk>) to find collections in print by searching for the title only

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed.

- **Halsbury's Statutory Instruments** (*print*)
  - Provides the full text of selected Statutory Instruments in England and Wales and summaries of the others
  - Provides up-to-date information on every Statutory Instrument
  - Grouped in subject volumes

- **Westlaw UK (SOAS Database)**
  - Contains Statutory Instruments currently in force from 1948 onwards
  - Contains historical versions from 1992 onwards
- **LexisLibrary (SOAS Database)**
  - Contains Statutory Instruments of general application in force from 1786 onwards
- **Legislation.Gov.Uk (<http://www.legislation.gov.uk>)**
  - Official source of Statutory Instruments still in force since 1987
- **British and Irish Legal Information Institute (BAILII)**  
(<http://www.bailii.org/ew/other/EWLC/>)
  - A gateway to British primary legal materials which are freely available online

## Researching Legislation

Just because an Act has been passed does not mean it is in force. Legislation can also be amended or repealed by subsequent Acts and Statutory Instruments. It is important, therefore, to be able to research legislation effectively.

\*\*Use the SOAS Library Catalogue (<http://lib.soas.ac.uk>) to find collections in print by searching for the title only

\*\*Use the A-Z Electronic Databases (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed.

### Checking an Act is in Force

- **Halsbury's Statutes: Is it in Force? (print only)**
  - This is a paper volume updated by Halsbury's Statutes where the Acts are listed alphabetically by year
  - Gives details of the commencement dates of Acts passed since 1961
- **Westlaw UK (SOAS Database)**
  - Gives details of the commencement dates of Acts passed since 1267
- **LexisLibrary (SOAS Database)**
  - Gives details of the commencement dates of Acts passed since 1267

### Checking an Act has been amended

- **Halsbury's Statutes (print only)**
  - Contains extensive commentary giving judicial interpretation, leading case law, notes as to meaning and effect, notes of statutory instruments
  - Look for entries in either the:
    - Cumulative Supplement or
    - Current Statutes Service (if it is a recent Act)
    - Noter-Up service.
- **Current Law Statute Citator (print only)**
  - Divided into a number of volumes covering different periods.
  - Covers Acts which have been:
    - Enacted during the period covered
    - Affected by a later Act or Statutory Instrument during period covered
    - Considered by the judiciary in a case during period covered
    - Repealed and amended during the period covered
  - Organised by year, then by chapter number
- **Westlaw UK (SOAS Database)**
  - Links to amending legislation

- **LexisLibrary (SOAS Database)**
  - Repealed Acts are omitted, but repealed sections are indicated.
  - Links to amending legislation, to Halsbury's annotations and to the Explanatory Notes for Acts since 1999
- **Legislation.Gov.Uk (<http://www.legislation.gov.uk>)**
  - Contains all primary legislation from 1988 onwards as amended by subsequent legislation
  - Note that most Acts pre-1988 are available but do not include the revised version
- **British and Irish Legal Information Institute (BAILII) (<http://www.bailii.org/>)**
  - Contains legislation from 1215 onwards as amended by subsequent legislation

## Current Awareness

There are various resources to use to keep your research up-to-date and you must be able to use both print and online resources.

\*\*Use the *SOAS Library Catalogue* (<http://lib.soas.ac.uk>) to find collections in print by searching for the title only

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed

- **Current Law Yearbook (print only)**
  - Contains details of all legal developments for the year, including:
    - Progress of parliamentary bills
    - Commencement dates of statutes
    - New Statutory Instruments
    - Reported cases
- **Halsbury's Laws of England and Wales (print and SOAS Database)**
  - Comprehensive legal encyclopaedia covering UK law
  - Arranged alphabetically by subject
  - Provides an authoritative statement of the law by experts
  - Use the Monthly Review to keep up-to-date; this cumulates into an annual abridgement
  - Available via *LexisLibrary* (see below)
- **Westlaw UK (SOAS Database)**
  - Provides a *Current Awareness* section which contains daily updates and notices of primary and secondary materials relating to relevant legal developments
  - It is updated three times daily at 9am, 11am and 2pm, with new information.
  - Information remains in the *Current Awareness* section for 90 days and then can be found by searching the *Current Awareness Archive*.
- **LexisLibrary (SOAS Database)**
  - Provides access to the Halsbury's Laws of England and Wales
  - Has a separate *Current Awareness* section which allows you to search for information on the latest legal developments within the UK. It searches:
    - UK case law & legislation
    - EU materials
    - Official publications
    - Newspapers