

## What is statutory interpretation?

Statutory interpretation is the way that courts interpret statutes. There are traditionally three main approaches that are taken:

1. The literal rule
2. The golden rule
3. The mischief rule

The literal rule is that words should be given their standard grammatical meaning. It does not matter if this leads to an absurd result. The key case to remember here is that of *Fisher v Bell* [1960], in which a shopkeeper was charged with offering to sell a prohibited item, which was a knife, under the Restriction of Offensive Weapons Act 1959. The shopkeeper was acquitted because their actions amounted to an invitation to treat and not an offer. This was regardless of the fact that the Act had been given statutory effect so as to prevent the sale of items such as knives.

One further case of note is that of *Whiteley v Chappell* (1868). Here a person was charged with “impersonating a person entitled to vote” at an election. They were acquitted because the person who had been impersonated was actually dead and therefore not entitled to vote. Therefore, it can be seen that adhering to a literal interpretation can lead to an absurd result.

The golden rule was created to try and iron out such absurdities that can occur from a literal interpretation. This rule was set out in the case of *Grey v Pearson* (1857), where it was held that the literal meaning of a provision should be applied unless it produces a repugnant or absurd result. If this is the case, then there is the possibility of a narrower or a wider interpretation being used. The former occurs when there are two possible meanings and one of them will result in a ridiculous result. The court will therefore have to apply the interpretation which does not have this effect.

A leading case here is that of *Adler v George* [1964]. It was an offence to obstruct someone in the armed forces when there were in particular locations. The defendant was in such a location. A literal interpretation would have led to their acquittal because they were not in the “vicinity”, but the actual place. Therefore, the word “vicinity” was taken to mean the actual place itself. The latter, wider meaning is when there is only one interpretation, but it will lead to an absurd result. In this situation, the court can replace this meaning with one which has a more sensible result. One example case here is *Re Sigsworth* [1935]. In this case, the intestacy rules would have entitled the defendant to inherit the estate of his mother under the intestacy rules, even though she had died due to this son murdering her! As a result, an alternative interpretation was used to ensure that the son could not inherit.

The origin of the third and final rule, the mischief rule, dates back to 1584. The aim of this form of statutory interpretation is to ascertain the underlying intention of the

statutory provision. There are four questions which the court must ask in order to apply this provision:

1. What was the common law situation before this statutory provision was enacted?
2. What was the mischief which the common law sought to remedy?
3. What remedy did parliament provide?
4. What was the true purpose of the remedy?

This rule was applied in the case of *Smith v Hughes* [1960], which concerned prostitutes who were convicted of soliciting men in the street under the Sexual Offences Act 1959. This piece of legislation made it an offence to solicit "in the street". The problem was that the prostitutes were soliciting men from a window that overlooked the street. Therefore, the women were not actually soliciting men in the street. The court applied the mischief rule to see what the "mischief" was that the Act was trying to remedy, which in this case was solicitation. The prostitutes were therefore convicted of solicitation.

Each of the above rules of statutory interpretation enables judges to give effect to Parliament's intention, however it is each case's individual circumstances that determine which rule of statutory interpretation is the best to apply in that particular situation.

### References

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