

Briefly describe the aids to interpretation used by judges.

There are two types of aids that judges can use to interpret statutes, these are Intrinsic and Extrinsic.

Intrinsic Aids are connected to the wording and/or punctuation within the Act itself. If using the Intrinsic Aid to interpret an Act of Parliament they will either examine the statute as a whole or study the relevant parts to see if they can define the overall purpose of the legislation. They may find that an interpretation of a certain section of the legislation would lead to an absurd result when another section is also taken into account.

All legislations have both a shortened title and a long title. With Intrinsic Aids, they need to look at both to help resolve doubt. The long title can be examined as part of the whole context. Said by Lord Simon in the case: The Black-Clawson 1975 the long title should be read as part of the context 'as the plainest of all the guides to the general objectives of a statute'.

Furthermore, headings, side notes and punctuation are important as it may help the judges clarify some points of the whole Act. Preambles can also be important when considering the wording etc within an Act as they will generalise the mischief to be amended and the scope of it.

Extrinsic Aids, on the other hand, deal with external matters, outside of the legislation, to help explain the meaning and purpose of the Act. External Sources can include dictionaries and other literary resources for example textbooks, to define the many meanings of statutory words and gain an insight of which meaning was meant to be incorporated into the Act. Also as of the Pepper v Hart case of 1993, the general prohibition that a court cannot refer to Parliamentary materials such as Hansards – a record book of everything said in the Parliamentary Houses was relaxed. Thus meaning that judges can refer to these if: Legislation is ambiguous or obscure or if the result would lead to an absurdity, the statements relied on are clear etc.

As well as; other statutes dealing with the same subject matter, official reports like a Royal Commission or Law Commissions etc that may have preceded the Act and practice – the decisions in another similar case can be a guide to interpretation.

Describe two of the rules of the statutory interpretation and discuss their advantages and disadvantages.

There are three rules and two approaches judges can use when trying to interpret an Act. The most narrow rule where the Act is followed to the words is the Literal Rule. This rule means that the words will be followed according to their literal meaning even if that means producing an absurd decision, its objective is to use the intentions that Parliament expressed in the words used. In the case of R v Judge of the City of London Court 1892, Lord Esher said 'If the words of an act are clear then you must follow them even though they may lead to a manifest absurdity. The court has nothing to do with the question whether the legislation has committed an absurdity'.

Judges can apply the literal rule in whichever case they wish to do so, for example in the case of Cutter v Eagle Star Insurance in 1998, the claimant [Cutter] was injured when a can of lighter fuel exploded while he was sitting in his friends car in a car park. The House of Lords ruled that the insurance company was not liable to pay out on the drivers policy as

the Road Traffic Act 1988 states that they are insured for 'injury caused while on a road'. The House of Lords said that the car park was not a road as roads are for cars to move along it to a destination

One of the disadvantages to this rule is quite obvious; it can produce absurd and rather harsh rulings and sometimes means that Parliament has to pass an amending Act. Secondly the Literal Rule ignores the limitations of language and assumes the Parliamentary draftsmen are perfect and precise in the many meanings of words. Finally judges have tended to excessively emphasise the literal meanings of a statute without examining and scrutinising the meanings in a wider context.

On the other hand, it actually encourages the draftsmen to be precise as to not result in harsh decisions. By using the Literal Rule, judges are also respecting the words of Parliament and it prevents them re-writing statute law which only Parliament is allowed to do.

Another rule that is used to interpret Acts of Parliament is the Golden Rule. This rule allows the judges to give a broader view of the Act and outcome of the case. If the Literal Rule gives an absurd result which Parliament could not have intended when passing the Bill, it is only in this situation that a judge can substitute a reasonable second meaning of the statute as a whole.

Two cases which highlight the use of the Golden rule in which an absurd decision would have been reached if the Literal rule had been applied are the cases; *Re Sigsworth* 1935 and *Adler v George* 1964. In the *Re Sigsworth* case the defendant had murdered his mother and was set to inherit her state as he was her next of kin by being her 'issue'. The problem was that it was grossly unfair that the defendant should profit from his crime and so the court applied the Golden rule and stated that 'issue' would not be entitled to profit from inheritance when they had murdered the deceased.

In the *Adler v George* case, the law said it was an offence to obstruct HM Forces 'in the vicinity of' a prohibited place. The defendants argued that they had actually been *in* the prohibited place and therefore not 'in the vicinity' of it thus meaning they were not liable. The court applied a second meaning under the Golden rule and stated that 'within the vicinity' meant near or actually in the place, finding them actually to have committed an offence.

One advantage of this rule is that it allows harsh and absurd decisions to be avoided by some degree, meaning the rule is much more flexible and so the Act is interpreted in a way it was possibly meant to be read. It also allows judges to avoid objectionable and adverse decisions like in the *Re Sigsworth* case.

Nevertheless there are also disadvantages to this rule. By using this rule it is clear that judges are 're-writing' statutes which only parliament is supposed to be able to do and is also disrespecting the words that Parliament have stated.