

Statutory interpretation

Literal v purposive approach

The 3 'rules'

- Literal Rule
- Golden Rule
- Mischief Rule

The rules of language

Aids to interpretation

Literal v Purposive approach

- Literal approach gives words their ordinary meaning - even if it is absurd or harsh
- *LSNER v Berriman*
- Purposive approach looks for Parliament's purpose
- *Jones v Tower Boot Co*
- But how can Parliament's intention be found?

The 3 Rules

- **Literal rule** – ordinary dictionary meaning
- *LSNER v Berriman*
- **Golden Rule** – modify words to avoid absurd result
- *Adler v George*
- **Mischief rule** – fill the gap in the law which the Act was aimed at
- *Smith v Hughes*

Literal rule

- judges do not make law
 - uses plain ordinary meaning of words
 - should lead to certainty
- BUT words may have several meanings
- it may lead to injustice *Berriman case*
 - it may lead to absurdity *Whiteley v Chappell*
 - described as a mechanical and unthinking method of interpretation

Golden Rule

- It is not a complete system –
- only comes into operation when the literal rule cannot be used because of ambiguity
- or would lead to absurdity if one meaning was taken – *R v Allen*
- or would lead to a repugnant situation *Re Sigsworth*
- described as a ‘feeble parachute’

Mischief rule

- can only be used where the gap in the previous law is known *Smith v Hughes*
- allows judges to fill that gap *Royal College of Nursing case*
- is more narrow than the purposive approach *R v Registrar-General, ex p Smith*
- BUT still allows judicial law making

NOTE that judges can choose which of these ‘rules’ or approaches they use in a case

Rules of language

Ejusdem generis – general words after a list only apply to things of a similar kind

- *Powell v Kempton Park Race Course*

The mention of one thing excludes others

- *Tempest v Kilner*

A word is known by the company it keeps

- *IRC v Frere*

Aids to interpretation

Internal aids

- anything **in** the Act

External aids

- certain things **outside** the Act

Internal aids

- the short title
- the long title
- the preamble, if any
- definition sections
- schedules
- subheadings
- margin notes
- punctuation

External aids

certain things **outside** the Act eg:

- dictionaries
- law reform reports
- Hansard
- explanatory notes published with Acts
- international conventions and treaties
- academic authorities

Use of Hansard

- Hansard is the record of what is said in Parliament
- Before 1993 the courts were not allowed to look at Hansard
- Then in *Pepper v Hart* the House of Lords ruled that Hansard could be used
- BUT only in limited circumstances

- the legislation is ambiguous or obscure, or leads to an absurdity; and
- the material relied on in Hansard consists of statements by a minister or other promoter of the Bill (together if necessary with such other parliamentary material as is necessary to understand such statements and their effect); and
- the statements relied on in Hansard are clear
