

# STATUTORY INTERPRETATION – PRACTICAL GUIDE

- 1) **Check that the provision/statute had commenced operation at the relevant time.**  
If not, does it nevertheless operate retrospectively?
- 2) **Read the entire Act. Read the Act slowly and carefully.**  
Remember that legislation must be interpreted in context and also that s 15AA of the *Acts Interpretation Act 1901* (Cth) states that 'in interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation'.
- 3) **Identify the sections that need to be applied and precise words that need interpretation.**  
**Plan your use of HIRAC (see section 2 of this document below).**
- 4) **Interpretation.**  
**Fundamental: What is the intention (or at least the imputed intention) of Parliament?**  
'[T]he duty of a court is to give the words of a statutory provision the meaning that the legislature is taken to have intended them to have. (*Project Blue Sky*). Try not to lose sight of this.

## BEGIN WITH:

### (A) Interpretation in Context: For each word/legal issue ....

- a) **Read the words for their ordinary meaning when read in context.**  
'[T]he modern approach to statutory interpretation ... insists that the context be considered in the first instance' *CIC Insurance Ltd v Bankstown Football Club Ltd* (or *Project Blue Sky*).
- b) **Definitions section.**  
Check if significant words have been defined in the definitions section of the Act. Also note whether any definition is an open (includes) or closed (means) definition. NB an open definition may not solve the problem of what the word means.
- c) **Acts Interpretation Act.**  
Consider if the term being interpreted is defined in the *Acts Interpretation Act* eg meaning of 'Commonwealth' and other words common to all statutes. Consider also relevant provisions of interpretation legislation dealing with singular/plural, masculine/feminine gender etc.
- d) **Dictionary, technical and legal meanings.**  
If the definition section is unhelpful, you may need to consult a dictionary for the ordinary meaning of the word or find the technical or legal meaning of a word. NB dictionaries are not treated by the courts as extrinsic materials.
- e) **Judicial Interpretation.**  
Consider if the provision has been interpreted previously by the courts. Also, does other related legislation throw light on meaning?
- f) **Maxims of interpretation.** These are a further aspect of contextual interpretation. Remember though that while the maxims are useful servants, they are dangerous masters.
  - *Noscitur a sociis* – 'the meaning of a word is known from the words that accompany it'.
  - *Ejusdem generis* – 'if words of particular meaning are followed by general words, the general words are limited to the same kind as the particular words'.
  - *Expressio unius est exclusio alterius* – 'express mention of one thing is the exclusion of another'.
  - 'Consistent use of words is assumed' and 'All words are assumed to carry meaning'.

## Summary

# Guide To Statutory Interpretation Student Guide Series

**SA Adler**



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