

# Rules of interpretation



A statute is a formal written enactment of a legislative authority that governs a state, city, or county. Typically, statutes command or prohibit something, or declare policy. Statutory interpretation is the process by which courts interpret and apply legislation. Some amount of interpretation is always necessary when a case involves a statute. Sometimes the words of a statute have a plain and straightforward meaning. But in many cases, there is some ambiguity or vagueness in the words of the statute that must be resolved by the judge.

To find the meanings of statutes, judges use various tools and methods of statutory interpretation, including rules of interpretation. The five (5) main rules of statutory interpretation are: 1. The Context Rule When the context rule is used to interpret an act it is understood with reference to the words which are in immediate connection to it. This can be expressed by the Latin maxim “ noscitur a sociis” which means “ a word may be known by the company it keeps” when translated.

The context rule is a more accurate way of interpreting a statute because in each rule we tend to find out the meaning of a statute by learning about the context in which it was written. When a word stand alone it may have one specific definition however when one word is used in more than one context it may have a variety of different meanings. When using the context rule one should consult the definition section of the statute and the Interpretation Act.

2.

Interpretation in the Light of Policy ( The Fringe Meaning) Courts often announce that that they are trying to discover the intention of the legislature when interpreting statutes. If the courts find it difficult to decide whether a

particular situation falls within a statute or not, the situation was probably unforeseen by the legislature. In this case the members of parliament would be just as confused as the judges. When statutes are constructed the maker of the document may not mean to include that which the court is concerned to ascertain, but they have said. . The Mischief Rule When the mischief rule is applied the act or document is to be constructed to suppress mischief and advance the remedy. In applying the rule, the court is essentially asking what was the " mischief" that the previous law did not cover? The Mischief Rule is of narrower application than the golden rule or the literal rule in the sense that it can only be used to interpret a statute and only when the statute was passed to remedy a defect in the common law.

The way in which the mischief rule can produce more sensible outcomes than those that would result if the literal rule were applied is illustrated by the ruling in *Smith v Hughes* (1960). It was a crime for prostitutes to " loiter or solicit in the street for the purposes of prostitution". The defendants were calling to men in the street from balconies and tapping on windows. They claimed they were not guilty as they were not in the " street. " The judge applied the mischief rule to come to the conclusion that they were guilty as the intention of the Act was to cover the mischief of harassment from prostitutes. . The Literal Rule Literal rule states that if the words in an act are precise and unambiguous then they should be used in their natural and ordinary sense. The court can not extend the statute to a case outside of its terms but with its purpose. Neither can it leave out the case that the statutes literally include though it should not. If any doubt arises then the circumstances behind the enactment of the act are taken into consideration.

Thus if the words are clear in themselves then they are to be put into effect.

5.

The Golden Rule In golden rule, the meaning of the words are modified in order to avoid repugnance, inconsistency or absurdity. This rule applies in a few cases. In the first case the rule allows the court to prefer a sensible meaning, which would be the most obvious, to an absurd one even though both are possible. In another case this rule will only be used if the words are absolutely incapable of coinciding with the obvious intention of the statute. It is only where the words will avoid an unreasonable result that they must prevail.