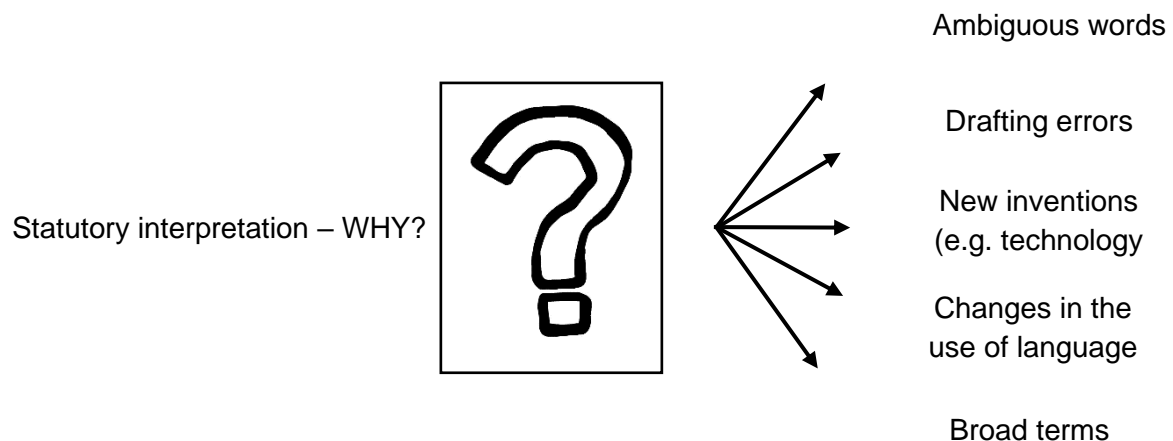
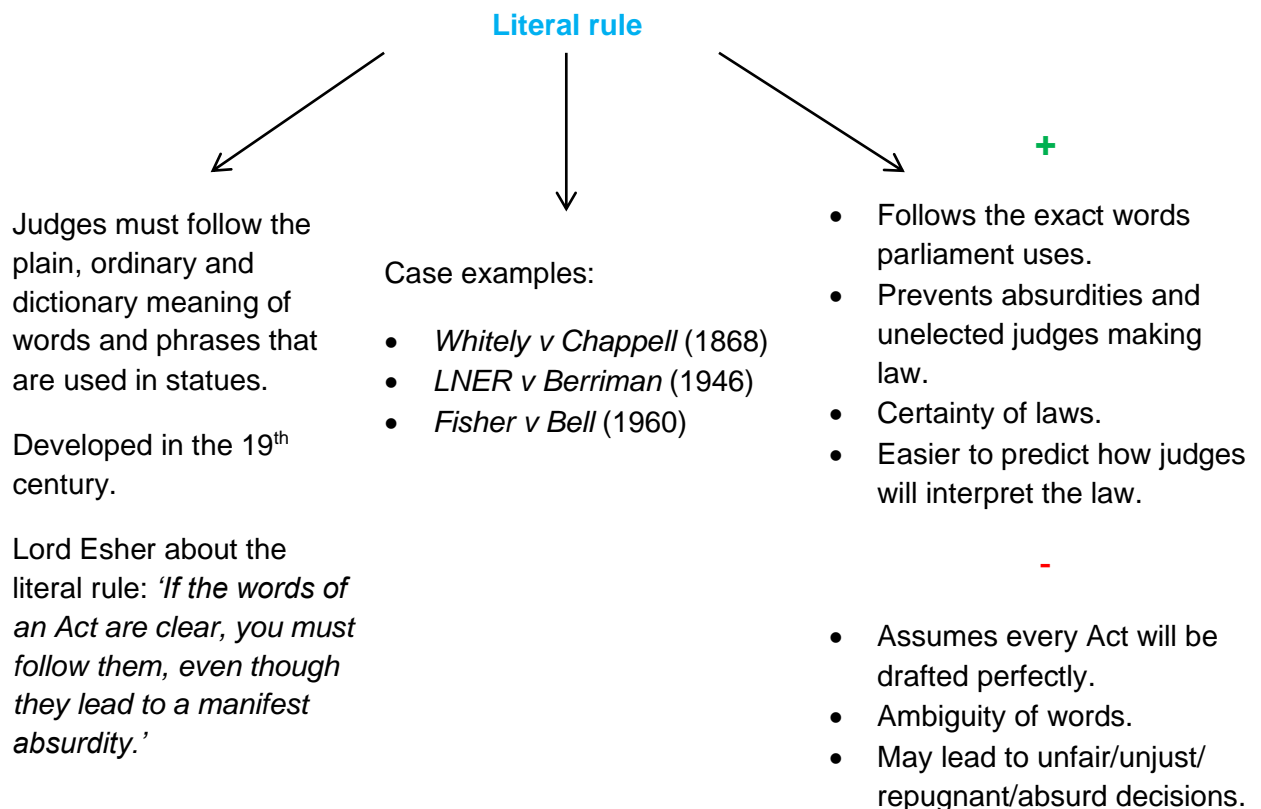


Statutory interpretation. Aids to interpretation.

Statutory interpretation – the way judges understand a statute made by Parliament in the cases they hear; there are four rules of statutory interpretation: literal rule, golden rule, mischief rule and purposive approach.



NB: cases are stated only as examples, without the case summary being given.



Golden rule

A rule of statutory interpretation that modifies the literal rule and avoids absurd interpretations. Used when the literal rule has failed. Split into:

- narrow approach – looks at the different possible meanings of the word/phrase being used and choose the one that is least likely to cause absurdities; it is restricted by the existing meaning of words;
- broad approach – may change the whole meaning of the word to avoid a repugnant decision.

Case examples:

- *R v Allen* (1872) [narrow approach]
- *Re Sigsworth* (1935) [broad approach]
- *Adler v George* (1964)

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- Respects the exact words of Parliament (except in limited situations).
- Allows judges to choose the most sensible meaning where there is ambiguity of words.
- Avoids repugnant decisions.

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- Limited use (rare occasions).
- Impossible to predict when it will be used (described as a 'feeble parachute').

Mischief rule (mischief = problem)

A rule of statutory interpretation that looks back to the gap in the previous law and interprets the Act so as to cover the gap. First used in *Heydon's Case* (1584), which raised the following questions:

- What was the common law before the Act was made?
- What was the mischief and defect for which the common law did not provide?
- What was the remedy that Parliament created to cure the commonwealth?
- What was the true reason for the remedy?

Case examples:

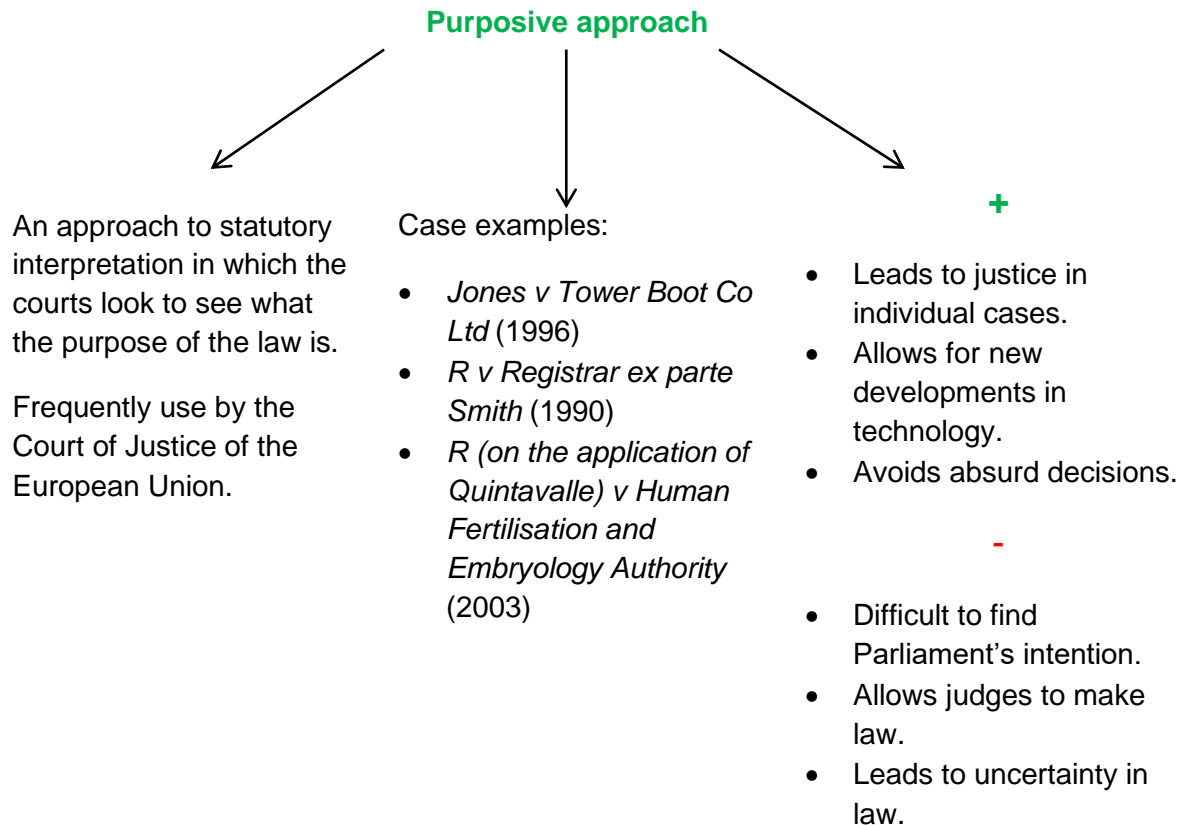
- *Smith v Hughes* (1960)
- *Royal College Nursing v DHSS* (1981)
- *Eastbourne County Council v Stirling* (2000)

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- Promotes purpose of law.
- Fills in gaps in law.
- Produces a 'just' result.

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- Risk of judicial law making.
- Not as wide as purposive approach.
- Limited to looking back at the old law.
- Can make the law uncertain.



Intrinsic aids to statutory interpretation – aids to interpretation found within the statute.

- Long and/or short title of the statute outlining the purpose of the statute.
- Preamble, a statement before the main body of the Act, setting out the aims/purpose of the statute.
- Schedules that can be referred to make sense of the main text to enable judges to understand a statute. Schedules are additions to the main body of the Act.
- Definition sections containing the meaning of key words used in statutes, e.g. in the Theft Act from 1968.
- Punctuation, which is usually limited so that interpretation can be left opened as it can affect the meaning of words
- Interpretation sections outlining the different interpretations of a word/phrase.

Extrinsic aids to statutory interpretation – aids to interpretation found outside the statute.

- Law Commission Reports, which can be referred to in order to discover the mischief that the legislation based on the report was seeking to deal with.
- Hansard, the official report of what was said in Parliament when the Act was debated.
- Interpretation Act 1978, which contains the meaning of words that are used in many statutes. It states that singular form includes the plural, and that 'he' is also referred to/includes 'she'.
- Explanatory notes, which are not part of the statute itself, and are written by the government departments responsible for the Act after it has been given Royal Assent.
- Dictionaries from the time of the statute used to find the literal meaning of words.