

What is Statutory Interpretation?

- Legislation usually drafted by Parliamentary counsel
- Parliament's role is to create legislation
- Judge's role is to apply it
- No matter how hard Parliamentary counsel work to make clear always some issues with definition
- Sometimes deliberately broad to allow flexibility
- This often means that judges have to interpret the Acts
- 75% of cases heard by Lords (now Supreme Court) are Statutory Interpretation

Statutory Interpretation

Jim Evans



Statutory Interpretation:

Dynamic Statutory Interpretation William N. Eskridge, 1994 Contrary to traditional theories of statutory interpretation which ground statutes in the original legislative text or intent legal scholar William Eskridge argues that statutory interpretation changes in response to new political alignments new interpreters and new ideologies It does so first of all because it involves richer authoritative texts than does either common law or constitutional interpretation statutes are often complex and have a detailed legislative history Second Congress can and often does rewrite statutes when it disagrees with their interpretations and agencies and courts attend to current as well as historical congressional preferences when they interpret statutes Third since statutory interpretation is as much agency centered as judge centered and since agency executives see their creativity as more legitimate than judges see theirs statutory interpretation in the modern regulatory state is particularly dynamic Eskridge also considers how different normative theories of jurisprudence liberal legal process and antiliberal inform debates about statutory interpretation He explores what theory of statutory interpretation if any is required by the rule of law or by democratic theory Finally he provides an analytical and jurisprudential history of important debates on statutory interpretation

The Theory and Practice of Statutory Interpretation Frank B. Cross, 2008-11-19 Today statutes make up the bulk of the relevant law heard in federal courts and arguably represent the most important source of American law The proper means of judicial interpretation of those statutes have been the subject of great attention and dispute over the years This book provides new insights into the theory and practice of statutory interpretation by courts Cross offers the first comprehensive analysis of statutory interpretation and includes extensive empirical evidence of Supreme Court practice He offers a thorough review of the active disputes over the appropriate approaches to statutory interpretations namely whether courts should rely exclusively on the text or also examine the legislative history The book then considers the use of these approaches by the justices of the recent Rehnquist Court and the degree to which they were applied by the justices either sincerely or in pursuit of an ideological agenda

Interpreting Statutes Suzanne Corcoran, Stephen Bottomley, 2005 *Interpreting Statutes* was cited 4 times by the High Court in *Momcilovic v The Queen* 2011 HCA 34 8 September 2011 *Interpreting Statutes* has been written for lawyers and judges who must interpret statutes on a daily basis as well as for students and scholars who have their own responsibility for the future This book takes a new approach to statutory interpretation The authors consider the fundamental importance of context in statutory interpretation across various fields of regulation and explore the problems which arise from the frequent disjunction between regulatory design and subsequent statutory interpretation As a result they bring to the fore fundamental theoretical questions underlying interpretive choice and expand our appreciation of how critical interpretive issues are to the proper functioning of our legal system The book is divided into two parts The first covers several areas dealing with fundamental theoretical issues The second deals with particular areas of the law such as criminal law or corporate law addressing the utility and

functionality of the general theories from different legal perspectives and illustrating the fact that different interpretive principles may take precedence in different areas of the law. It reveals the complexity of statutory interpretation when applied to actual practice in a particular area of law. Despite this complexity and the unique problems of statutory interpretation within each area of law, some major themes emerge including the strong influence of constitutional interpretation, tension between common law rights and statutory innovation, questions about the interaction of domestic law with international law, tension between settled judicial principles of interpretation and principles embedded in legislation, issues concerning the interpretation of delegated legislation and questions about gap filling and discretion in the interpretation of statutes and codes.

Statutory Interpretation Rupert Cross, 1976 *Legal Method* Sharon Hanson, 2000-10-17

The competent study of law is a finely tuned balance of excellent language ability, good reading and writing skills, good personal study discipline, a thorough appreciation of the relevant areas of substantive law and excellent argumentative skills. Legal method is an important area of study for two main reasons. First, it is important for the range of techniques that it can offer to break into legal texts, both primary and secondary. Secondly, it exposes reasoning processes concerned with the theory and practice of law. The book deals in both the areas mentioned and aims to deal with issues of

Statutory Interpretation Donald James Gifford, 1990. Examination of the general approaches to statutory interpretation with a detailed focus on the rules developed by the courts. Leading authorities and representative cases relating to those rules are included. The author teaches law at the University of Queensland.

Judicial Reasoning under the UK Human Rights Act Helen Fenwick, Gavin Phillipson, Roger Masterman, 2007-09-06. Judicial Reasoning under the UK Human Rights Act is a collection of essays written by leading experts in the field which examines judicial decision making under the UK's de facto Bill of Rights. The book focuses both on changes in areas of substantive law and the techniques of judicial reasoning adopted to implement the Act. The contributors therefore consider first general Convention and Human Rights Act concepts: statutory interpretation, horizontal effect, judicial review, deference, the reception of Strasbourg case law, since they arise across all areas of substantive law. They then proceed to examine not only the use of such concepts in particular fields of law: privacy, family law, clashing rights, discrimination and criminal procedure, but also the modes of reasoning by which judges seek to bridge the divide between familiar common law and statutory doctrines and those in the Convention. **A**

Dictionary of Statutory Interpretation William D. Popkin, 2007. Statutory interpretation has become the most commonly required skill of the modern lawyer. A Dictionary of Statutory Interpretation provides a ready reference to the important terms and ideas that arise in connection with determining the meaning of legislation. Chapter 1 includes over 100 entries including the following: ambiguity, the absurdity canon, linguistic and substantive canons, legislative intent, legislative purpose, legislative history, textualism, Legal Realism, Law and Economics. Each entry includes a definition, an explanation of the relevance of the term and ideas for statutory interpretation, some history about its use and a concise discussion of

contemporary issues The author expresses his point of view in the discussion of these issues which is generally skeptical about textualism but presents all sides of the debate A reference section allows for further research on each subject Chapter 2 includes over 35 famous quotations dealing with the interpretation of statutes along with historical and critical commentary The entries include Learned Hand Holmes Calabresi Posner Easterbrook Pound Blackstone etc The book will be useful for lawyers judges law professors and law students who want an entry into the contemporary debate about how to interpret legislation along with an insight into what is at stake in those debates filled with usefully extended treatments of important and interesting legal terms The Green Bag This book will be a useful tool for readers or libraries needing a good single volume guide to statutory interpretation Summing up Highly recommended CHOICE Librarians and researchers should consider A Dictionary of Statutory Interpretation an essential reference work for a very affordable price It will likely become a go to resource when quick but in depth analysis of a statutory interpretation question is sought Legal Information Alert Volume 26 Issue 9 Alert Publications Inc Chicago IL www.alertpub.com

Statutory Interpretation Rupert Cross, John Bell, Sir George Engle, 1987 *The Interpretation of Statutes and General Clauses Acts (central and States) with Words and Phrases* Narotam Singh Bindra, 1961

Statutory Interpretation Douglas Walton, Fabrizio Macagno, Giovanni Sartor, 2021-01-21 Combining pragmatics dialectics analytics and legal theory this work translates interpretative canons into patterns of natural argument

Understanding Legislation David Lowe, Charlie Potter, 2018-04-19 This book will be of great value to practitioners students academics and judges whatever their level of experience The trouble for many legal practitioners and indeed for many legal book writers can be a failure to see the wood for the trees and that is a particular risk when it comes to a subject as fissiparous as statutory interpretation David Lowe and Charlie Potter are to be congratulated for having avoided that risk they have written a crisp and engaging book which covers this important topic in an informative and accessible way From the foreword by David Neuberger *Understanding Legislation* provides a practical accessible guide to interpreting both English and European legislation of all kinds This book can be used as a first port of call for practitioners and students on all matters of statutory construction It is designed to serve as a succinct and authoritative point of reference for questions concerning sources of legislation the anatomy and structure of differing instruments and matters of interpretation As well as considering how to read statutory language and the key principles and presumptions that the courts will apply the book addresses how other legislation and materials can influence the interpretive exercise and in what way To this end it discusses the interpretive significance of the different components of legislation the various external aids to construction that may exist and the role of international law the European Convention on Human Rights through the Human Rights Act 1998 and EU law in interpreting domestic law While the primary focus is on English law the treatment of EU and international law will also serve as concise freestanding guidance as to the sources of EU law the construction of EU legislation and the construction of treaties

Legislation and Statutory Interpretation William N. Eskridge (Jr.), Philip P.

Frickey, Elizabeth Garrett, 2006 Suitable for students or practitioners this authoritative overview of the legislative process and statutory interpretation moves smoothly and understandably between the theoretical and the practical You ll find in depth discussion of such topics as theories of legislation and representation electoral and legislative structures extrinsic sources for statutory interpretation and substantive canons of statutory interpretation Reap the benefits of the authors experience opinions and insight and gain a working knowledge of the area **Statutory Interpretation** Francis Alan Roscoe

Bennion, 2008-03 Bennion on Statutory Interpretation is the leading work on the interpretation of legislation and essential reading for all those who practise law whether drafting legislation administering it advising on it or arguing it in court The Fifth Edition has been extensively revised and updated to ensure that it remains the seminal work on statutory interpretation for the modern day practitioner The work explains clearly and concisely how to extract the relevant interpretative factors in deciding the legal meaning and effect of all types of legislation The provision of checklists helps to ensure that no argument is overlooked Critical issues such as how to assess legislative intent are examined A framework is provided which enables the reader to interpret legislation accurately and confidently The Fifth Edition will be kept up to date by supplements as and when required **Analysis and Digest of the Decisions of Sir George Jessel, Late Master of the Rolls** Great Britain.

Court of Chancery, 1883 **Statutes in Court** William D. Popkin, 1999 A history of the discretion accorded U S judges in interpreting legislation from the Revolution to the present culminating in the author s own theory of the proper scope of judicial discretion **Bennion on Statutory Interpretation** Diggory Bailey, Luke Norbury, 2017 Bennion on Statutory Interpretation is the leading work on statutory interpretation It provides a clear and comprehensive guide to understanding interpreting and applying legislation Regularly used by practitioners and academics and frequently cited in judgments throughout the common law world it is a trusted and authoritative resource The material in the new edition has been extensively restructured and in places rewritten to improve accessibility and enhance the content The edition has been produced by a new editorial team with Professor David Feldman QC Hon FBA Rouse Ball Professor of English Law as consultant editor Key features comprehensive and up to date account of statutory interpretation logical structure and overviews enable readers to find information quickly each section begins with a succinct legal proposition which is followed by more detailed commentary and analysis extensive examples illustrate the application of principles discussed in the text

Commentaries on the Criminal Law Bishop, 1882 **Bennion on Statutory Interpretation** Oliver Jones (Lawyer), Francis Alan Roscoe Bennion, 2013 Bennion on Statutory Interpretation is the leading work on the interpretation of legislation and essential reading for all those who practise law whether drafting legislation administering it advising on it or arguing it in court The Sixth edition has been extensively revised and updated to ensure that it remains the seminal work on statutory interpretation for the modern day practitioner The work explains clearly and concisely how to extract the relevant interpretative factors in deciding the legal meaning and effect of all types of legislation The provision of checklists helps to

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