

Interpreting Taxing Statutes # 84 - Archaism

Where legislation uses a term that is archaic or obsolete it must be given what appears to be its intended meaning, having regard to changes since it was current. ^{^1}

Where a term has two meanings only one of which is archaic it will be presumed, in the absence of any indication to the contrary, that the modern meaning is intended. ^{^2}

SYNOPSIS

Sometimes (though very seldom) a term is inserted in an Act even though it is known to be archaic. This may be a technical or non-technical term. Where this occurs it must be assumed that the term is intended to have its archaic meaning, though that does not prevent its meaning in the Act from being developed by the courts in the ordinary way.

As stated by the court in respect of a provision which enabled a party to require a person to be called as a witness unless the person is 'beyond the seas', that the phrase meant beyond the four seas surrounding the British Isles, namely the English Channel, the North Sea, the Irish Sea and the Arctic Ocean. The court upheld this meaning on the ground, based on the purpose of the Act, that the phrase should be applied in the light of the powers of the court to make people come and give evidence here. The phrase means 'beyond the seas' in the old sense and not 'abroad' or 'beyond the British Islands'. ^{^3}

Both archaic and modern meaning

¹ Bennion 2020 s 22.8

² Bennion 2020 s 22.8

³ Rover International Ltd v Cannon Film Sales Ltd (No 2) (1987) 1 WLR 1597 cited in Bennion 2020 p 667

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Where the legislature uses a term which has an archaic meaning and also a (different) modern meaning it will be presumed, in the absence of any indication to the contrary, that the modern meaning is intended. For example, it was held that ‘committee’ as used in the Act was intended to have its modern meaning of a group of two or more persons, and not its obsolete meaning of a person to whom any person or function is committed.<sup>4</sup>

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<sup>4</sup> R v Secretary of State for the Environment, ex p Hillingdon London Borough Council (1986) 1 WLR 192 cited in Bennion 2020 p 668