

~~~~~ **Interpreting Taxing Statutes # 78 – Ordinary meaning of words and phrases**

The starting point in statutory interpretation is to consider the ordinary meaning of a word or phrase, that is its proper and most known signification. And if there is more than one ordinary meaning, the most common and well-established one is preferred.^{^1}

SYNOPSIS

Ordinary meaning

- Words as understood in common language
- Ordinary natural meaning
- Meaning by careful consideration of the interpretative criteria

Tense

- Present tense indicates time of event
- Present tense as tense by default

Ordinary meaning

The starting point is to consider the ordinary meaning of the word or phrase. The phrase ‘proper and most common signification’ used here is taken from a passage from Pufendorf which runs:

‘As for words, the rule is, unless there be reasonable objections against it, they are to be understood in their proper and most signification; not so much according to grammar, as to the general use of them.’ ^{^2}

Words as understood in common language: Said by the court as follows:

¹ Bennion 2020 s 22.1

² Pufendorf, Of the Law of Nature and Nations (4th edn, 1729) p 535 cited in Bennion 2020 p 651

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‘Now when we look at the words of an Act of Parliament, which are not applied to any particular science or art, we are to construe them as they are understood in common language.’<sup>3</sup>

**Ordinary natural meaning:** The words are required to be given ‘their ordinary natural meaning’.<sup>4</sup> Said as follows:

‘The basic principles are that the words of the statute should be interpreted in the sense which best reflects their ordinary and natural meaning and accords with the purposes of the legislation.’<sup>5</sup>

**Meaning by careful consideration of the interpretative criteria:** The meaning of words in an enactment is to be found by careful consideration of the interpretative criteria applying in relation to that enactment, rather than by considering how those words have been interpreted in other contexts.<sup>6</sup>

## Tense

When interpreting a provision, consideration should be given to the tense used.

**Present tense indicates time of event:** Where the present tense is used this may indicate that the relevant time is not the time when the court is considering the matter but the time when the relevant action was initiated. In some cases, consideration of the interpretative criteria may indicate that a reference to the present tense is not to be taken literally. Use of a particular tense may denote a continuum in that tense rather than an instant of time.<sup>7</sup>

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<sup>3</sup> R v Winstanley (1831) 5 Bli NS 130 cited in Bennion 2020 p 647

<sup>4</sup> Selvey v DPP (1970) AC 304 cited in Bennion 2020 p 647

<sup>5</sup> R (The Good Law Project) v Electoral Commission (2017) EWHC 2414 cited in Bennion 2020 p 648

<sup>6</sup> Bennion 2020 p 650

<sup>7</sup> Bennion 2020 p 651

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Present tense as tense by default: When considering tense, it is important to bear in mind that it is usual in legislation to use the present tense on the basis that an Act is always speaking. So, for example, an Act will often say something like ‘where a person is convicted ...’ meaning where they are convicted in the future, ie after the commencement of the enactment in question. ⁸

⁸ Bennion 2020 p 651