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## Interpreting Taxing Statutes # 89 - Description of *ejusdem generis* principle

**The *ejusdem generis* principle is a principle of construction whereby the wide words associated in the text with more limited words are taken to be restricted by implication to matters of the same limited character. [Ben 23.2]**

### SYNOPSIS

The *ejusdem generis* principle is a particular application of the principle *noscitur a sociis*. It arises from the linguistic implication by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context. It may be regarded as an instance of ellipsis, or reliance on implication. The principle is presumed to apply unless there is some contrary indication. [Tillmanns & Co v SS Knutsford Ltd [1908] 2 KB 385.

### EXAMPLE

The Race Relations Act 1976, s 20(1), made it unlawful for a person concerned with the provision of ‘goods, facilities or services’ to discriminate on the grounds of race. In *Kassam v Immigration Appeal Tribunal* [(1980) 1 WLR 1037] Ackner LJ said:

‘The word “facilities” in this section is flanked on one side by the word “goods” and on the other by the word “services”. This suggests to my mind that the word “facilities” is not to be given a wholly unrestricted meaning but must be limited or confined to facilities that are akin to goods or services.’

### ***Principle not tied to any particular formula***

The *ejusdem generis* principle is not tied to any particular formula. As the above examples show, it does not, as has been suggested, apply only where there is a string of terms that form a class followed by wide residuary or sweeping-up words (though this is a common example of its application). Thus, for example, the wider words may merely follow on from the generic words.

However, the typical application of the principle is where the formula runs ‘A, B, C or other [general description]’. As Cross put it:

‘... the draftsman must be taken to have inserted the general words in case something which ought to have been included among the specifically enumerated items had been omitted ...’ [Statutory Interpretation (1st edn, 1976) p 116]

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Odgers says it is assumed ‘that the general words were only intended to guard against some accidental omission in the objects of the kind mentioned and were not intended to extend to objects of a wholly different kind’. [Odgers *The Construction of Deeds and Statutes* (5th edn, 1967) p 184.]

Since it is independent of form, the ejusdem generis principle does not necessitate use of the word ‘other’ in the residuary phrase (eg ‘offal’ garbage, or other refuse’). Nor need a word like ‘similar’ be used; indeed the point of the principle is to treat the presence of such a word as implied. The principle is captured by Driedger in these words:

‘The result of the decisions appears to be as follows: if no class [or genus] can be found, the rule cannot apply and a broad construction may be favoured; if a class can be found but the specific words exhaust the class, then rejection of the rule may be favoured because its adoption would make the general words unnecessary; if, however, the specific words do not exhaust the class, then adoption of the rule may be favoured because its rejection would make the specific words unnecessary.’ [Driedger on the *Construction of Statutes* (3rd edn, 1994) p 95]

Resolving ambiguity

The ejusdem generis principle may be used to resolve ambiguity or uncertainty.

Diminishing relevance

The ejusdem generis principle is unnecessary where residuary or other words are expressly limited by reference to a specified class. Nowadays a drafter is more likely to spell out the qualifying words. There is then no need for conjecture. ‘Instead of relying on the curative rule of “construction”, [the modern drafter] tries to avoid the situations that give rise to them in the first place.’ [Reed Dickerson *Materials on Legal Drafting* (1981) p 129]