

Interpreting Taxing Statutes # 31 – Plain meaning rule

Where an enactment is grammatically capable of only one meaning (whether generally or in relation to the facts of the instant case) and, on an informed interpretation, the interpretive criteria do not raise any real doubt as to that meaning, the enactment is the primary indication of the legislative intention (and therefore the legal meaning).¹

SYNOPSIS

Plain meaning

Informed interpretation

Plain meaning

Where the legal meaning is plain it must be followed. The rule is one consequence of the principle that the text of the enactment is the primary indication of the legislative intention (and therefore the legal meaning).²

A meaning is ‘plain’ only where no relevant interpretative criterion points away from the meaning. In other words, the plain meaning must be given, but only where there is nothing to modify, alter or qualify it.³

The plain meaning rule was expressed as follows:

“In determining the meaning of any words or phrase in a statute the first question to ask always is what is the natural or ordinary meaning of that words or phrase in its context in the statute. It is only when that the meaning leads to some result which cannot reasonably be supposed to have been the intention of the

¹ Bennion 2020 s 11.9

² Bennion 2020 p 418

³ Bennion 2020 p 419

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legislature that it is proper to look for some other possible  
meaning of the word or phrase.”<sup>4</sup>

This rule determines the operation of most enactments, because most enactments have a straight forward and clear meaning with no counter-indications. As Cross said:

“The essential rule is that words should generally be given the meaning which the normal speaker of the English language would understand them to bear in their context at the time when they were used. It would be difficult to over-estimate the importance of this rule because the vast majority of statutes never come before the courts for interpretation. If it were not a known fact that, in the ordinary case in which the normal user of the English language would have no doubt about the meaning of the statutory words, the court will give those words their ordinary meaning, it would be impossible for lawyers and other experts to act and advise on the statute in question with confidence.”<sup>5</sup>

The importance of the plain meaning was expressed as follows:

“Where the meaning of the statutory words is plain and unambiguous it is not for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they themselves consider that the consequence of doing so would be inexpedient, or even unjust or immoral. In controversial matter such as are involved in industry relations there is room for differences of opinion as to what is expedient, what is just and what is morally justifiable. Under our constitution it is Parliament’s opinion on these matters that is paramount.”<sup>6</sup>

In another case it was said:

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<sup>4</sup> Pinner v Everett (1969) 1 WLR 1266 cited in Bennion 2020 p 419

<sup>5</sup> Cross, Statutory Interpretation (3<sup>rd</sup> ed, 1995) p 1 cited in Bennion 2020 p 419

<sup>6</sup> Duport Steels Ltd v Sirs (1980) 1WLR 142 cited in Bennion 2020 p 419

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“Rules of statutory construction have a valuable role when the meaning of a statutory provision is doubtful, but none where, as here, the meaning is plain. Purposive construction cannot be relied on to create an offence which Parliament has not created. Nor should the House adopt an untenable construction of the subsection simply because courts in other jurisdictions are shown to have adopted such a construction of rather similar provisions.”⁷

Informed interpretation

The question is whether, on an informed interpretation of the enactment, there is no real doubt that the grammatical interpretation is that intended by legislature. It is not whether the enactment, read literally, contains a plain meaning.⁸

Informed interpretation requires the interpreter to have regard to the context. The mischief which the Act was intended to remedy and any other relevant interpretative criteria.⁹

⁷ R v Bentham [(2005) UKHL 18 cited in Bennion 2020 p 419

⁸ Bennion 2020 p 419

⁹ Bennion 2020 p 420