

Interpreting taxing statutes # 24 – context

The text of an enactment must be read in its context.¹

SYNOPSIS

Significance of context

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Statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular contexts².

The words of an enactment are illuminated by consideration of its context. Words are not deployed in a vacuum. The overall context of the Act provides the colour and background to the words used, and thus helps the interpreter to arrive at the meaning intended by the legislature.³

The context must be considered for the language in all legal text, conveys meaning according to the circumstances in which it was used. It follows that the context must always be identified and considered before the process of construction or during it.⁴

Even in an area more disposed to literal construction, the courts were alive to the importance of context. In a classic English case, it was said:

“In all cases the object is to see what is the intention expressed by the words used. But, from the imperfection of language, it is impossible to know what that intention is without enquiry farther, and seeing what the circumstances were with reference

¹ Bennion 2020 s 11.2

² R v Secretary of State for the Environment, Transport and the Regions Ex p Spath Holme Ltd [2001] 2 AC 349 cited in Bennion 2020 p 393

³ Bennion 2020 p 393

⁴ R v National Asylum Support Service [2002] UKHL 38 cited in Bennion 2020 p 393

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to which the words were used, and what was the object, appearing from those circumstance, which the person using them had in view; for the meaning of words varies according to the circumstances with respect to which there was used.”<sup>5</sup>

Rejecting a suggestion that the enacting words should be constructed in isolation it was said:

“Words and particularly general words, cannot be read in isolation: their colour and content are derived from the context. So it is that I conceive it to be my right and duty to examine every word of statutes in its context and I use the ‘context’ in its widest sense, which I have already indicated as including not only other enacting provisions of the same statute, but its preamble, the existing state of the law, other statutes in *pari materia* and the mischief which I can, by those and other legitimate means, discern the statute was intended to remedy.”<sup>6</sup>

So, the context is relevant not simply for resolving ambiguity and other uncertainties, but for ascertaining meaning (whether or not there is ambiguity or other uncertainty), and indeed for identifying whether something is (or is not) ambiguous and uncertain in the first place.<sup>7</sup>

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<sup>5</sup> *River Wear Commissioner v Adamson* [1877] 2 App Cas 743 cited in Bennion 2020 p 393

<sup>6</sup> *A-G v Prince of Hanover* [1957] 1WLR 436 cited in Bennion 2020 p 394

<sup>7</sup> Bennion 2020p 394