

ITS 25.2 – Guidance and official statements on meaning of Act

Guidance or official statements by a minister or other public authority may be persuasive authority as to the legal meaning of an enactment, depending on the quality of the reasoning.¹

SYNOPSIS

Guidance

Other Official Statements

Guidance

Ministry and other public authorities frequently provide practical guidance on how an Act should be applied or implemented. This guidance can either be issued on a non-statutory basis or explicitly authorized or required by the Act itself. In such cases, public authorities involved in administering the Act are often obligated to consider the guidance.

If a public authority disregards statutory guidance without strong justification, its actions may be deemed unlawful and subject to judicial review. However, guidance does not constitute a source of law and cannot modify the legal meaning of a statute. In terms of statutory interpretation, guidance "has no special legal status." The judiciary, not the executive, has the authority to determine the meaning of legislation. Any guidance attempting to interpret legislation will only carry as much weight as the quality of its reasoning merits. If the guidance is incorrect, courts will not hesitate to say so. However, when guidance aligns with the interpretation the court is inclined to adopt, it may provide some reassurance to the court.

¹ Bennion 2020 s 24.17

Other Official Statements

The admissibility of official statements, as part of legislative history, is subject to the court's discretion. In the past, courts were less inclined to permit the citation of such materials compared to the present day.