

## Interpreting Taxing Statutes # 16 - Enactment - the unit of inquiry

For the purpose of statutory interpretation, the unit of inquiry is an enactment. It is a legal proposition in a legislative text that provides for a specified legal consequence to occur when facts fall within an indicated area.<sup>1</sup>

### SYNOPSIS

Enactment

Unit of enquiry

Combined effect of two or more enactment

Applying the enactments to the facts

### Enactment

An enactment is a **single legal proposition**; the separate declarations of the legislature contained in an Act enforcing certain rules of conduct, or conferring certain rights upon or withholding them from certain persons or classes of persons.<sup>2</sup>

An enactment may be a whole Act or part of it,<sup>3</sup> a section or even part of the section;<sup>4</sup> any provision of an Act.<sup>5</sup>

**Includes delegated legislation** - Bennion widens the concept of 'enactment' to include the proposition of delegated legislation too. He establishes that the term 'enactment' is not limited to Act, parts or even sections of an Act; any provision, long or short, which achieves a distinct legal objective may be an enactment and so provisions of delegated legislation (though delegated legislation has not of course been enacted by the

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<sup>1</sup> Bennion 2020 s 10.2

<sup>2</sup> Thring 1877 p 3

<sup>3</sup> Vasantrao v Shyamrao (1977) 4 SCC 9 cited in Singh 2010 p 1068

<sup>4</sup> Prabodh Verma v State of UP (1984) 4 SCC 251 cited in Singh 2010 p 1068

<sup>5</sup> General Clauses Act 1897 Sec 3(19)

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legislature) is also an enactment.<sup>6</sup> So, an enactment means a single legal proposition, whether laid down by an Act, or in a delegated legislation, enforcing certain rules of conduct, or conferring certain rights upon or withholding them from certain persons or classes of persons.

### **Unit of enquiry**

The concept of the enactment is central to statutory interpretation, because difficulties about meaning are usually centred on one or more discreet propositions. Though full legal meaning of an enactment cannot be gained without penetrating to the extremities of the legal system as a whole, an enactment provides the context to the words which are under examination as the root of ambiguity or vagueness. An enactment, therefore, is the unit of enquiry.<sup>7</sup> When facts fall within an indicated area of the enactment then only specified legal consequences occur. The court is not required to determine the legal meaning of an enactment in abstract, but only when applied to the relevant facts of the case before it.

### **Combined effect of two or more enactment**

Where the combined effect of two or more enactments is in question, each in turn is treated as a unit of enquiry, and their combined effect falls to be determined.<sup>8</sup> An Act may contain more than one enactment bearing on the point at issue. Or relevant enactments may be scattered between two or more Acts. In such cases the meaning and effect of each enactment falls to be examined separately (though not in isolation from the others).

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<sup>6</sup> Bennion 2020 p 361

<sup>7</sup> Bennion 2020 p 361

<sup>8</sup> Bennion 2020 p 362

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What has then to be applied is the resultant of the enactments combined.

### **Applying the enactments to the facts**

While applying the enactments to the facts the court has two-fold functions. First, it is required to decide the dispute between the parties who are before it in the instant case. Secondly, it has the duty, so that justice according to law may be seen to be done and law in question may be known, of indicating the legal principle held be determinative of the dispute.<sup>9</sup>

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<sup>9</sup> Bennion 2020 p 362