

# PUBLIC LAW HD EXAM NOTES/TRANSCRIPT

## Part A: Statutory Interpretation

Answer outline:

1. Introduction (page 2)
  - a. Modern Approach
  - b. What the parties want
2. Text (page 3)
  - a. Statutory definition
  - b. Dictionary
  - c. Maxims Moving away from grammatical meaning
  - d. Title
3. Context (page 4)
4. Purpose (page 6)
5. Rights Protective Interpretation (page 8)
  - Colour coding:
    - o Red = cases
    - o Green = legislation
    - o Blue = insert from exam facts

## Part B: Essay (Migration)

1. *Al-Kateb* (page 13)
2. *Lim* (page 21)
3. *Plaintiff M68* (page 25)

### STEP 3: CONTEXT

Introduction:

- Although the ordinary meaning is the beginning of interpreting a statute, it is not the end point. As per *Slaveski v Smith*, there is a legitimate resolution for deciding that a statute means something other than what the ordinary meaning of the text alone indicates.
- This is supported by *PBS*, as the desirability of applying the literal meaning of the statute can create conflict because it does not rectify the mischief parliament aimed to remedy through the Act.

OR

- The grammatical meaning of a provision may not reflect the intended legal meaning. Therefore, the court must look beyond the actual words given to the provision (*PBS*).
- As per Dixon CJ in *Commissioner for Railways* the “context, general purpose and policy of a provision are surer guides to its meaning than the logic which it was constructed” and this was confirmed in *PBS*.

#### Reading the statute as a whole

- This involves reading the words in light of its surrounding provisions.
- [P/D] will argue that the meaning of words must be determined “by reference to the language of the instrument viewed as a whole” (*PBS*).
- Mason & Wilson JJ in *Cooper Brookes* case stated that statutory interpretations fundamental aim is to determine the legislative intention through reading the language in the statute as a whole.

OR

- Due to the provisions in a statute interacting with one another to achieve a particular legal effect, it is important to not look at words in a statute in isolation. Therefore, looking at the broader phrase in which the word is inserted is necessary to form its meaning (*Certain Lloyds Underwriters v Cross*).
- Simply, the court would interpret the ambiguous word/provision in light of its immediate surrounding provisions. P would argue that due to the [AMBIGUOUS TERM] being surrounded by terms such as [example and its section] lends colour to the understanding that it should be interpreted in a manner that reflects similar meaning.
  - More specifically, that it [does/does not] include [factual action].

#### Legislative Amendments (if relevant)

- As per the mischief rule, the legislation should be interpreted in a manner which enables it to solve the mischief it was designed to (*Heydon*).
- Statutes are constantly being made as old ones are frequently being amended. As this applies to [this Act], it is important to interpret the statute’s context in light of its legislative amendments. This method indicates how the courts are blurring the line between context and purpose.
- Here, the courts will take into account the event [factual event] which led to the Acts amendment in order to ascertain the meaning of [word].
- P will argue that the meaning of the word [factual word] includes [factual action] because the Act was amended to include [factual event].

- This means that the word [insert word] was inserted to prevent the [factual event/action] as this led to its amendment.
  - **NOTE:** show here WHY a particular provision was changed. However, if it's something regarding the purpose of the legislation set out in the Second Reading Speech (SRS), then it goes under purpose.

#### CONCLUSION

- On balance, it is likely that the court would favour [D or P] because the context of the statute highlights that it was implemented to minimise behaviour such as [factual action].