

4.1 The need for statutory interpretation

The meaning of law in a statute should be clear and explicit, but this is not always achieved. Thus, many of the cases which come before the courts concern a dispute over the meaning of a word or phrase in a statute. In those cases the task of the court is to decide the exact meaning of that particular word or phrase. There are a number of factors which can lead to an unclear meaning.

- A broad term There may be words designed to cover several possibilities and it is left to the user to judge what situations fall within it.
- *Ambiguity* A word may have two or more meanings and it may not be clear which meaning should be used.
- A drafting error The parliamentary council which drafted the original Bill may have made an error that has not been noticed by Parliament. This is more likely to occur where a Bill has been amended several times during debates.
- Wording may be inadequate There may be many ways in which the wording may be inadequate, for example, a printing error, or another error such as the use of a word with a wide meaning which is not defined.
- *New developments* New technology may mean that an old Act of Parliament does not apparently cover present-day situations.
- Changes in the use of language The meaning of words can change over the years.
- *Certain words not used* The draftsmen may refrain from using certain words that they regard as being implied. The problem here is that users may not realise that this is the case.
- Failure of legislation to cover a specific point The legislation may have been drafted in detail, with the draftsman trying to cover every possible contingency. Despite this, situations could arise which are not specifically covered. The question then is whether the court should interpret the legislation so as to include the situation which was omitted or whether they should limit the legislation to the precise points listed by Parliament.

London and North Eastern Railway Company v Berriman [1946] 1 All ER 255

Mr Berriman was a railway worker who was hit and killed by a train while he was doing maintenance work. Regulations stated that a lookout should be provided for men working on the other railway line 'for the purposes of relaying or repairing it'. Mr Berriman was maintaining the line. His widow tried to claim compensation for his death because the railway company had not provided a lookout man. The court ruled that the relevant regulation did not cover maintenance work and so Mrs Berriman's claim failed.

The court looked at the specific words in the regulation and was not prepared to look at any broad principle that the purpose of making a regulation that a lookout man should be provided was to protect those working on railway lines.

Brock v DPP (23 July 1993)

In the Dangerous Dogs Act (1991 S.I.) there is a phrase 'any dog of the type known as the pit bull terrier'. This led to a debate as to whether 'type' means the same as 'breed'. In *Brock*, the Queens Bench Divisional Court decided that 'type' had a wider meaning than 'breed' and it could cover dogs that were not pedigree pit bulls but which had a substantial number of characteristics of such a dog.

In all legislation there is the potential for words and phrases to create uncertainty which can only be resolved by judicial interpretation. That interpretation is a creative process and inevitably involves the judiciary in the process of creating law.

The question arises as to what techniques the judges should use as they are required to define that term or phrase. A number of rules have been developed to assist judges in this process, the rules of statutory interpretation. These have been produced over the centuries by judges themselves and Parliament has played no role in their development. It can be argued, however, that Parliament remains the supreme law-making body. If it does not like the definition produced by the court, it can choose to pass new legislation which overturns the court's decision.

