

# Statutory Interpretation

## *Literal rule*

Under this 'rule' the judge is required to consider what the legislation *actually* say, rather than what it might mean. The words should be given their literal meaning, even if this leads to an undesirable outcome. Under this 'rule' the courts are following the wishes of Parliament as expressed in the words that Parliament has chosen.

## *The golden rule*

This rule provides a solution where the *literal* rule is considered to lead to an absurd result. This rule demands a 'genuine difficulty' before the *literal* rule will be declined in favour of the *golden* rule. However, the question of how the courts will reach the conclusion that there is a 'genuine difficulty' lies within their discretion.

### *The narrow rule*

Used where there are two contradictory meanings to the word used, or where the provision is ambiguous in its effect. The *golden* rule favours the meaning avoiding absurdity.

### *The wider meaning*

Adopted where there is only one possible meaning, but the court are of the opinion that such a literal interpretation would result in absurdity.

## *The mischief rule*

A rule expressed in *Heydon's Case* (1584), which looks to ascertain the problem, or *mischief* within the common law (the law developed in cases), which the legislation seeks to resolve.

In making use of the *mischief* rule the courts should consider the following:

- a) What was the common law before the passing of the Act (legislation);
- b) What was the *mischief* in the law which the common law did not deal with effectively;
- c) What solution did Parliament seek to provide for that *mischief*;
- d) What was the reason for Parliament to adopt that remedy?

NB in *Heyden's* day the answers to these questions could be ascertained by reference the preamble of the legislation which would identify the 'problem' with the common law. Today, the courts do not have this aid, and are loath to use sources outsider of the legislation itself.