

Practical Statutory Interpretation: Bennion's NESSSI Method

Modern legislative drafting in the United Kingdom is logical and precise, though complicated. Francis Bennion, a former Westminster Parliamentary Counsel (Government legislative draftsman) has devised NESSSI, which stands for New Scientific System of Statutory Interpretation. This practical system is not wholly new, but presents a novel rationalization of the existing interpretative criteria. It is based on the method set out in *Bennion on Statutory Interpretation* (LexisNexis, 5th edn, 2008). Designed for practitioners, NESSSI is also helpful to students.

NESSSI postulates that a problem of statutory interpretation needs to be tackled step by step, scientifically. The first step is always to find out and set down the exact wording of a doubtful enactment, stripping it of unnecessary words (that is words which are not relevant to the problem in hand). Then the opposing constructions of the enactment which need to be put forward by either side are worked out. The construction desired by the client needs to be supported by all relevant interpretative criteria.

The interpretative criteria consist of (1) *rules* of interpretation; (2) *principles* derived from legal policy; (3) *presumptions* based on the nature of legislation; and (4) linguistic *canons* of construction applicable to all types of composition. They resemble the various instruments used by a surgeon in carrying out an operation. There are many different surgical instruments but the surgeon selects only those that are relevant to the operation he or she is conducting.

Practical statutory interpretation is also described in other books by Francis Bennion, namely *Statute Law* (Longman, 3rd edn 1990) www.francisbennion.com/1990/002.htm, *Understanding Common Law Legislation*, (Oxford University Press, 2001) www.francisbennion.com/book/ucll.htm, and the *Statutes* title in the current version of Halsbury's *Laws of England* (LexisNexis Butterworths, 4th edition Reissue, 1995, vol. 44(1)).

Advice on court technique regarding statutory interpretation is given in Appendix A to *Bennion on Statutory Interpretation*, while a useful checklist is set out in Appendix B of that work www.francisbennion.com/2008/013/apb.htm.

An example of NESSSI in action is given in Bennion's article 'The Real IRA Is Proscribed After All' in 168 JPN (4 September 2004) 694 www.francisbennion.com/2004/020.htm.

On the teaching of statutory interpretation using NESSSI see the article by Kay Goodall at www.francisbennion.com/2007/nfb/005.htm.

For a case which has used NESSSI (that is where the court has applied the basic rule set out on pages 544-548 of the fifth edition of *Bennion on Statutory Interpretation*) see *The Medical Council of Hong Kong v Shek* FACV000003/2000. This can be accessed at www.francisbennion.com/hkmedicalcouncil2000.htm.

See generally Bennion's 2009 article 'How to Use NESSSI'. www.francisbennion.com/2009/016.htm