

Statutory Interpretation – A Companion

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Administrative Law Fundamentals

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STATUTORY INTERPRETATION — A COMPANION

To a large extent judicial review of administrative action is a specialized branch of statutory interpretation.

de Smith, quoted by Beetz J in *UES v Bibeault*
[1988] 2 SCR 1048

- What** This is a condensed *overview* of:
- fundamentals in statutory interpretation, based primarily on writings of Prof. Ruth Sullivan
 - some particular interpretation rules in admin law
- Who for** Mostly, junior lawyers and general practitioners; but seasoned practitioners should find things they've either missed or forgotten.
- Statutory interpretation is a complex subject, and never completely mastered. Like most everything in law, it is a lifelong apprenticeship.¹
- Why** Lawyering is 90% fundamentals. Before going on to advanced concepts, we need a thorough understanding of the legal system, its many moving parts, and how they all function together.

¹ "A lawyer's professional education is a lifelong process. Legislation is amended, the common law evolves, and practice standards change as a result of technological advances and other developments. Lawyers must be vigilant in order to update their knowledge, strengthen their skills, and ensure that they adhere to accepted ethical and professional standards in their practices." *Green v Law Society of Manitoba* 2017 SCC 20 at para. 1

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1. INTRODUCTION

1.1 Three cardinal principles

1. **Read the D**n Act.**
2. Understand the *Rizzo* test and train yourself to go beyond plain meaning to consider all other possible factors.
3. Widen and enrich your perspective (e.g., read caselaw regularly; moot issues with colleagues; attend court or tribunal hearings; learn more about legal drafting).

1.2 **Sullivan** Much of what follows is gleaned from the texts of Prof. Ruth Sullivan. Even if she weren't the most frequently-cited author in Canadian law, hers is the best orderly review of the subject area and in my respectful view, unimprovable.

I have therefore liberally paraphrased or quoted from her works. Skimming through this material should prompt you to consult her originals (listed on next page).

1.3 Words used

Sullivan → References like [*Sullivan@32*] are not to the familiar Sullivan text *Construction of Statutes*, but to her shorter book, *Statutory Interpretation* (3rd, 2014). All footnotes have been omitted.

enactment → This is used in the extended *Interpretation Act* sense—basically, anything passed under statutory authority that has the force of law.

It's a more accurate term to refer to all legislation (including statutes and regs). The general expression *statutory interpretation* also normally includes both statutes and subordinate legislation.

legislature → Means *legislative body*, but federally would of course be Parliament (and LGIC would be GIC).

1.4 **Where to find statutes** CanLii, eCarswell and QP Source are all dependable sources, but to make sure you have the current amended version, check:

- (1) RSA 2000, then
- (2) the latest red sessional volume, then
- (3) “Bill and Amendments” on the Legislative Assembly site:
http://www.assembly.ab.ca/net/index.aspx?p=bills_home