

*Note This is version 2 of this document. The earlier version 1 is still available as 2007.004.*

## **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, 5<sup>th</sup> 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. Then the opposing constructions of the enactment which need to be put forward by either side are worked out. The construction favoured by the client needs to be supported by all relevant interpretative criteria. These 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.)

Practical statutory interpretation is also described in other books by Francis Bennion, namely *Statute Law* (Longman, 3<sup>rd</sup> edn 1990) ([www.francisbennion.com/1990/002.htm](http://www.francisbennion.com/1990/002.htm)), *Understanding Common Law Legislation*, (Oxford University Press, 2002) ([www.francisbennion.com/2001/032.htm](http://www.francisbennion.com/2001/032.htm)) and the *Statutes* title in the current version of Halsbury's *Laws of England* (LexisNexisButterworths, 4<sup>th</sup> edition Reissue, 1995, vol. 44(1)).

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

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 (<http://www.francisbennion.com/2004/020.htm>).

On the teaching of statutory interpretation using NESSSI see [www.francisbennion.com/2007/nfb/005.htm](http://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 at

[http://legalref.judiciary.gov.hk/lrs/common/ju/ju\\_body.jsp?DIS=21991&AH=&QS=&FN=&currpage=](http://legalref.judiciary.gov.hk/lrs/common/ju/ju_body.jsp?DIS=21991&AH=&QS=&FN=&currpage=)