

Cambridge University Press

978-0-521-19549-2 - How to Do Things with Rules: A Primer of Interpretation, Fifth Edition

William Twining and David Miers

Table of Contents

[More information](#)

Contents

Preface	<i>page</i> xiii
Online appendices	xxiv
Acknowledgements	xxv
Abbreviations	xxvii
Table of statutes and legislative instruments	xxix
Table of cases	xxxvii
Part I	1
1 Some food for thought	3
1 Introduction	3
2 The pervasiveness of norms	6
3 Normative and legal pluralism	6
4 Interpretation	10
5 Standpoint and role	15
6 Rules and relationships	23
7 Rules and reasons	32
8 Rules and results	35
9 Visual presentations of rules	44
10 Statutory interpretation and precedent: bigamy	46
11 Discretion to disobey	53
12 Human rights and freedoms	58
Part II Reading, using and interpreting rules in general	67
2 Problems and mischiefs	69
3 Of rules in general	80
1 What is a rule?	80
2 Rules and values	87
3 The form and structure of a rule	89
4 Rules, exceptions and exemptions	92
5 The variety of rules	94
6 Rules and systems	97

Cambridge University Press

978-0-521-19549-2 - How to Do Things with Rules: A Primer of Interpretation, Fifth Edition

William Twining and David Miers

Table of Contents

[More information](#)

x

Contents

7	Reifying rules: a note of warning	102
8	The functions of rules	107
9	Rules as techniques of social management	111
10	Two views of rules: formalism and instrumentalism	114
11	Other perspectives on rules	119
4	Interpretation and application	121
1	Interpretation: what?	122
2	Law and fact	125
3	Interpretation and application	131
4	Rule-handling	132
5	Who interprets?	133
6	Rule-makers and rule-interpreters	141
7	Legalism	143
8	Leeways for interpretation and application	145
5	Imperfect rules	148
1	The factual context of rules	149
2	Intentions, reasons and purposes	150
3	The role of purposes and other reasons in interpretation	158
4	Rules and language	162
5	The open texture of rules	169
	Part III Reading law: reading, using and interpreting legislation and cases	173
6	Routine and problematic readings	175
1	Routine readings	175
2	Problematic readings: conditions of doubt	176
3	A diagnostic model: structure	178
4	A diagnostic model: application	183
7	Legislation	193
1	Introduction	193
2	Reading legislation: what? why? how?	195
8	Interpreting legislation	230
1	Clarification of standpoint and role	231
2	Checking the currency of the statutory material	231
3	Identification of the conditions of doubt	235
4	The construction of arguments	236
9	Reading cases	268
1	Reading cases: what? why? how?	268
2	Cases as precedents	276

Cambridge University Press

978-0-521-19549-2 - How to Do Things with Rules: A Primer of Interpretation, Fifth Edition

William Twining and David Miers

Table of Contents

[More information](#)

xi

Contents

3	Two perspectives on precedent	277
4	The doctrine of precedent	279
5	The practice of precedent	295
6	The <i>ratio decidendi</i> of a case	304
7	$X = X = X$	312
10	The European dimension	315
1	The European Union	316
2	The European Convention for the Protection of Human Rights and Fundamental Freedoms	325
3	The Human Rights Act 1998	326
4	A note on judicial style	334
11	Rules, reasoning and interpretation	336
1	From diagnosis to argument	336
2	The structure of argument in <i>R v. Allen</i>	338
3	Reasoning, rules and law	343
4	Lawyers' reasonings	363
5	Epilogue: towards a theory of legal interpretation?	365
6	Literary analogies, radical indeterminacy and noble dreams	370
	Part IV	377
	Questions and exercises	379
	Index	391
	Resources on the web	
	The following text can be found on-line at www.cambridge.org/twiningandmiers	
Appendix I	Supplementary materials and exercises on Chapter 1	
Appendix II	Normative and legal pluralism	
Appendix III	Visual presentation of rules	
Appendix IV	The Reading Law Cookbook	
Appendix V	Supplementary materials and exercises on Chapters 7–10	
Appendix VI	Supplementary materials and exercises on Chapters 9 and 11	
Appendix VII	Domestic violence: a case study	
Appendix VIII	MPs' expenses: a case study	
Appendix IX	Hunting Act 2004: a case study	
Appendix X	Suggestions for further reading	