# Session 4 – EXERCISES

*You* ***don’t*** *need to prepare complete answers to these exercises in advance of Session 4 as we will be workshopping them in class. However,* ***it is essential that before Session 4 you have:***

* *read all parts of each exercise; and*
* *given some thought to how you would go about answering the exercises using the statutory interpretation rules and processes covered in the Session 4 readings and podcasts, so that you are well prepared for discussion.*

# Exercise One – Using the purposive approach[[1]](#footnote-1)

*Break into your small group and discuss the questions below. At this stage we are focusing on:*

* *construing the provision according to the ordinary and natural meaning of the words;*
* *considering what the purpose of the Act is, and then attempting to construe the words of the provision consistently with that purpose.*

*We will then share our answers with the whole class.*

**Question:**

Section 1 of the *Street Offences Act 2010* provided:

This Act is intended to prevent solicitation for purposes of prostitution in streets and other public places.

Section 2 provided:

It shall be an offence for a person to loiter or solicit in a street or public place for the purpose of prostitution.

Carl is a sex worker. Can he be convicted under s 2 in the following scenarios?

1. From inside a house Carl solicits men passing in the street by tapping on a windowpane to attract their attention and then either directly or by signs inviting them into the house.
2. From home, Carl surfs the Internet as part of his business strategy. He goes into various free blogs and free chat rooms and begins online conversations with people with a view to soliciting them.

# Exercise Two – Interpretation in context[[2]](#footnote-2)

*These questions give us a chance to apply some of the rules relating to interpreting in context as well as revise what we learned earlier about purpose.*

*Break into your small group and discuss the questions below. Follow the same basic interpretive process described above for exercise one, but focus on trying to ‘flesh out’ the interpretation of the ordinary and natural meaning of the words by looking at their* ***context*** *and using the various ‘contextual rules’ described in the readings and podcasts, in particular any relevant ‘****maxims of interpretation****’.*

*We will then share our answers with the whole class.*

**Part A –**

Section 12 of the *Licensing Act 1872* provided:

Every person who in any highway or other public place, whether a building or not, is guilty while drunk of riotous or disorderly behaviour, or who is drunk while in charge on any highway or other public place of any carriage, horse, cattle or steam engine, or who is drunk when in possession of any loaded firearm, may be apprehended, and shall be liable to a penalty.

Rachel, who was found pushing her bicycle along the road while in a drunken state, was charged with an offence under s 12. Could she be convicted?

**Part B –**

Section 3 of the *Litter Act 1989* provided:

Any person who throws down, drops or otherwise deposits and leaves any litter in or on any public place shall be guilty of an offence.

Section 2 of the same Actprovided:

Unless inconsistent with the context or subject-matter – ‘litter’ means bottle, tin, carton, package, paper, glass, food or other refuse or rubbish.

Bruce drained oil onto the ground from the sump of his car that was parked in a public place. Did he commit an offence?

**Part C –**

Section 7A of the *Crimes Act 1968* provided:

If any person prints or publishes any writing which incites, urges, aids or encourages the commission of offences against any law of the Commonwealth or of a Territory … he shall be guilty of an offence.

Section 30F of the same Act provided:

Any person who knowingly prints, publishes, sells or exposes for sale or who circulates or distributes any book, periodical, pamphlet, handbill, poster or newspaper for or in the interests of or issued by any unlawful association shall be guilty of an offence.

Donna admitted handing out, in a public street, a pamphlet that encouraged the commission of an offence under a law of the Commonwealth. Did she ‘publish’ any writing, thereby committing an offence against s 7A?

# Exercise Three – Extrinsic material

*Break into your small groups and discuss the question below. Follow the same basic interpretive process described above for Exercise Two, but focus on looking to extrinsic material as a final step in the process to help you in your interpretation – whether to confirm the ordinary natural meaning in light of context and purpose, or to resolve an ambiguity or an absurd/unreasonable outcome. Your ability to use extrinsic material derives from s 15AB of the* Acts Interpretation Act 1901 *- so remember to look closely at that section.*

*We will then compare answers as a whole class.*

**Question:**

Section 105J of the *Social Security Act 1947* (Cth) provided:

A person who has the custody, care and control of a severely handicapped child and provides, in the child's home, constant care and attention in respect to that child, is qualified to receive an allowance.

When moving that the Social Services Bill (No 3) (which was ultimately passed and, among other things, amended the *Social Security Act* 1947 to include s 105J) be read a second time in the House of Representatives, the Minister for Social Security, Mr Hayden, had said:

‘Parents or guardians who care for a handicapped child at home will be encouraged to take full advantage of the facilities that are being made available under the general welfare program and the child’s attendance at a day school or training centre will not affect eligibility for payment of the allowance.’

In the late 1970’s Sharon had a daughter, Chloe, who was born with Down syndrome and needed a high level of care. Sharon gave up her job to care for Chloe full-time in their home. She successfully claimed for the allowance under s 105J. In early 1985, when Chloe was 6 years old, Sharon was able to enrol Chloe in a school, which she attended for a few hours each week. Was Sharon still entitled, in 1985, to claim the handicapped child’s allowance available under s 105J of the *Social Security Act*?

1. These questions have been adopted, or adapted, from questions included in Exercise 12 in Creyke et al, *Laying Down the Law* (LexisNexis, 10th ed, 2018), parag 10.23. [↑](#footnote-ref-1)
2. These questions have been adapted from questions included in Exercise 12 (parag 10.23) and Exercise 13 (parag 12.23) in Creyke et al, *Laying Down the Law* (LexisNexis, 10th ed, 2018). [↑](#footnote-ref-2)