Type of Argument	Form of Argument	How to Defend	How to Attack
Textual Argument	(1) The legal text says 'If A, B, C, then X, Y, Z' (2) According to a textual analysis, A means D, B means E, C means F (3) Therefore, the applicable rule is 'If A (meaning D), B (meaning E) and C (meaning F), then X, Y, Z'	**Plain Meaning**: The text has an obvious plain meaning supported by dictionary definition or public understanding (common sense). **Canon of Construction**: There is a canon of construction that applies to this type of text that can shed light on its meaning (e.g. *expressio unius exclusion alterius*). In Ireland, there is also the *Interpretation Act 2005* which codifies rules of *statutory* interpretation which can be used to support a textual analysis. **Intratextual Analysis**: Another part of the same text supports a particular interpretation of the rule.	**Plain Meaning**: Either (a) the meaning is ambiguous or uncertain or (b) there is a different plain meaning. **Canon of Construction**: Either (a) this canon of construction does not apply to this type of legal text or (b) there is a rival canon of construction that applies to this text and yields a different meaning. [Same applies **Intratextual Analysis:** Either (a) there is a conflicting inference to be drawn from the text or (b) there is a conflicting inference to be drawn from another text (which must be read with this one).
Intentional/Purposive Argument	(1) The legal text says 'If A, B, C, then X, Y, Z' (2) The intention of the person/s that drafted the rule was that A mean D, B mean E and C mean F.	Different kinds of evidence can be used to establish the intent/purpose behind the text: **The text itself**: sometimes texts explicitly state the intention behind them, e.g. some statutes include long titles or preambles that the intentions behind them.	No matter what kind of evidence is introduced to support an intent-based argument, there are four ways of attacking it: 1. The evidence (of whatever form) suggests a different intent or purpose behind the text.

	(3) Therefore, the applicable rule is 'If A (meaning D), B (meaning E) and C (meaning F), then X, Y, Z'	**Changes to the text**: A history of amendments or revisions to a text might reveal the intent. **History of the text**: The text will have been produced in a certain historical context perhaps in response to a particular challenge or controversy. This might suggest a particular intent. **Commentary on the text**: Commentaries on the text at the time it was drafted or amended (e.g. parliamentary debates about a statute) might reveal intent.	2. The evidence of intent is not sufficient or is ambiguous or inconclusive. 3. The intent that is evidenced does not count because it did not come from a relevant authority/person. 4. The people who wrote the rule could not have anticipated the current facts and so there is no intent guiding the application of the rule in this case.
Precedential Argument	(1) In case P, the legal rule that applied was 'If A, B and C, then X, Y and Z' (2) This case is similar to case P in all important respects. (3) Therefore, the rule 'If A, B and C, then X, Y and Z' should apply to this case.	This is the heart of common law legal argument. There is really only one way to support this type of argument: **Analogical Reasoning**: Careful analysis of the fact pattern of both cases highlighting the relevant structural similarities between them. This type of argument thus blends a factual argument with an argument about a legal rule, i.e.	There are six ways to attack an precedential argument: 1. Show that the two cases are dissimilar in some important respect. 2. Show that there are two competing lines of authority and so (a) it is unclear what the relevant rule should be or (b) this case is more like the rival authority.

		you have to reach conclusions about the facts of the case to build the analogy.	3. Show that the cited opinion from the previous case was not a holding but, rather, obiter dictum. 4. Show that the cited opinion did not command the majority of the court. 5. Show that the relevant authority has now been overruled or replaced by a new rule and so no longer applies. 6. Show that the relevant authority was incorrectly decided and so should be overruled.
Tradition-based Argument	(1) The tradition/custom states that 'If A, B and C, then X, Y and Z' (2) Evidence shows that the habits and customs of people in a given area support the traditional rule 'If A, B and C, then X, Y, and Z' (3) Therefore, the rule 'If A, B and C, then X, Y and Z' should apply to this case.	This is sometimes said to be the origin of the common law: the codification of custom in a given area. Custom-based arguments are still common in some areas of law such as contract law and international law. To support such an argument, you need to provide evidence of the custom. You can do this in a couple of ways:	There are three main ways to attack a tradition-based argument: 1. Show that the alleged tradition does not exist, i.e. the evidence for the tradition is weak or incomplete or unpersuasive. 2. Show that there have been competing traditions and so (a) it's not clear which traditional rule

		Historical analysis: A review of the historical record suggests that people have always followed or endorsed this rule. **Recorded Opinion/ Commentary:** Available evidence on public opinion (or the opinions of relevant sub-groups of the public) suggest that they agree to this rule.	should apply to this case or (b) the alternative traditional rule should apply to this case. 3. Show that a new tradition is emerging which displaces the old traditional rule (this is a frequent problem with tradition-based argument since society is always changing and adapting to new realities).
Policy-based Argument	[Slightly different from the other arguments. This type of argument focuses on evaluating the likely outcome of a particular rule] (1) The supposition/working hypothesis is that rule R (taken from text, intention, precedent or tradition) applies to this case. (2) If rule R applies to this case, good/bad consequence X, Y, and Z will occur. (*Prediction Premise)* (3) We should adopt a rule with good consequences; we should not adopt a rule with bad	Policy arguments are supported by both (a) a prediction or interpretation about what would happen if the rule were enforced. This prediction is then evaluated using some evaluative theory (moral, economic, religious etc). **Deontological Evaluation:** The morally right rule to follow in this case is Rule Y ((support from secular moral theory; religious tradition etc); Rule R does/does not comply with Rule Y **Consequential Evaluation:** If we follow Rule R, then good things will	Since policy-based arguments are more contentious than the others, there are several different ways to attack them, including attacking both the predictive and normative premises of the argument. Six methods of attack are most likely to work: 1. Argue that it is not the job of the law to make these policy judgments (that's a job for the legislature or the public). 2. Show that the relevant moral tradition or evaluative theory

	consequences (*Normative Premise*) (4) Therefore, rule R should/should not apply to this case.	happen (we will be happier, we will have less crime, there will be economic growth etc.) and we should want good things to happen.	actually supports an alternative rule. 3. Show that although the policy goal is good, it is not served in this case (i.e. the prediction is false). 4. Show that there is a competing policy outcome that should be preferred. 5. Show that the alleged desirable/undesirable consequences will not follow from the rule. 6. Show that policy considerations are not sufficiently strong to outweigh other legal arguments.