

Introduction to the Subject

Laws = balancing freedoms

Business law – aims to balance the rights, duties and obligations of people in business

- Consumer – producer
- Manufacturer – supplier
- Buyer – seller
- Lender – borrower
- Employer – employee

Ethics (soft law) → Cannot be charged for breaches but has consequences

Responsible business



Sources of law

- Statutory law
 - Legislation
 - Acts of parliament
 - Statutes
- Case law
 - Common law
 - Judge-made law
 - Precedent
- Laws overlap as judges interpret laws to different situations

Sources of law and regulation

Rule of law = all citizens must obey the law i.e. equal before the law → Prevents (supposed to) arbitrary exercise of power

Types

- Public – criminal/tax → state
- Private – Property/contract → Civil
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	Criminal Law	Civil Law
Case initiated by	Police/gov't agencies`	Individual/corporation
Likely Source of law	Statutory law	Common law
Parties	State(Crown) v. Accused	Plaintiff v. Defendant
Onus/burden of proof	Prosecution	Plaintiff
Standard of proof	Beyond reasonable doubt	Balance of probabilities
Decision	Magistrate, judge, or judge and jury	Magistrate/judge
Outcome	Jail, fines, good behaviour bond, community service	Damages, specific performance, injunction

Separation of power → Set out in the constitution

- Judiciary – Judgement
- Executive government – action
- Parliament – make laws

Federal Parliament → State/Territory → Local councils

Court role

- Interpret law
- Make new principles
- Filling gaps in legislation

Court Hierarchy

- Federal
 1. High Court
 2. Family Court of Australia
- State
 1. High Court
 2. Supreme Court
 3. District/County Court
 4. Magistrate/Local Court