

FINAL REVISION NOTES

UTS SUBJECT 27628

LAW FOR LEISURE, SPORT & TOURISM

CONTENTS:

Introduction to LST Law.....	2
Branches/Types of Law.....	3
Business Organisations: Management & Administration.....	4
Contracts I.....	6
Torts & Negligence.....	9
Risk Management.....	12
Contracts II.....	14
Intellectual Property Law.....	16
Consumer Protection.....	19
Tourism: Travel Agents' Act (NSW).....	22
Liquor Licensing.....	24
Ethics.....	26

Law for LST

Week 1

Paul Johnson (Weeks 1 & 2)

What is Law?

- Rules (**not all rules are law**) – Who makes the rules?
 - Laws vs. Rules: differences lie in the source, and the punishment
 - Ethical rules don't bind in the same way & the repercussions are different (psychological)
- Moral/ethical -> maintain order/authority and manage society
- JUSTICE – “**Rule of Law**” -> the fundamental principal by which our society operates, but not necessarily ALL societies
- Government – Federal vs. State
- **Enforcement**
- Court – Interpretation of law -> Criminal cases vs. Civil cases
- Common Law vs. Statutory Law
- **Legislation**

How does law relate to LST?

- **Contracts**
- OH&S -> Laws of **negligence** (duty of care)
- ACCC
 - Competition
 - Consumer Protection (misleading/deceptive)
- I.P. (**Intellectual Property**) – Copyright, trademarks and confidentiality/information
- Discrimination

Business structures:

- Sole trader/proprietorship
- Partnerships
- Companies
- Associations

Current examples:

- AFL/NFL ASADA **investigations** and club politics
- Google music streaming + poor internet **royalties** paid to emerging artists
 - The owner of the **copyright** isn't always the owner (e.g. Michael Jackson owned, and got the royalties for, some Beatles songs) -> I.P.
- Jockey suing for **negligence** (must be within 6 years) -> **compensation**
- **Disputes** over alcohol sale/service guidelines & licensing in George Street
 - Law is in many ways, the outcome of policy issues
Matter of public policy
 - Public dispute and discussion can often lead to policy decisions by governments

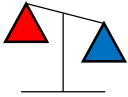
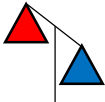
Sources of Law

STATUTORY LAW	COMMON LAW
<p>Commonwealth – section 51</p> <ul style="list-style-type: none"> Immigration, tax, education, defence, health, trade/commerce Does NOT have <i>direct</i> power over environmental law <p>State</p> <ul style="list-style-type: none"> Unlimited (> s.51) Peace, order and good government If a state law is in contradiction with a commonwealth law, '<i>commonwealth prevails</i>' 	<p>Precedents – decision made 'before' by a judge (e.g. definition of a term made by another judge in a prior case -> bound by a precedent by a superior court judge)</p> <p>Australia, Canada, England</p> <p>Hierarchy of courts (state by state – no jurisdiction/don't have binding authority over other states' courts)</p> <ul style="list-style-type: none"> High court (fed.) Federal (fed.) Family (fed.) Supreme (state) District (state) Local (state) – Magistrates <p>Judge/Justice</p> <p>Solicitors - GP Barristers/Counsel – Specialists (Both 'legal practitioners')</p>

Rule of Law:

- Everyone is equal under the law
- The law rules (as opposed to the military, guns, bribery/corruption, money)
- 'The fundamental principal by which our society operates, but not necessarily ALL societies'

2 Branches/Types of Law:

CIVIL	CRIMINAL
<p>Laws/disputes between individuals and companies i.e. Contracts, Negligence, Business practices</p> <p>(Onus/burden of Proof: Brings the action)</p> <p>▼</p> <p>Plaintiff -v- Defendant</p> <p>Standard of Proof: Balance of Probabilities</p> 	<p>'Anti-social' behaviour which might lead to a more serious breakdown of social order i.e. assault, vandalism, theft, homicide, drug use, fraud</p> <p>(Onus/burden of proof: Brings the action)</p> <p>▼</p> <p>Director of Public Prosecution [DPP] (informed by the police & acting on behalf of authorities or the state)/R [Regina/Queen] -v- Defendant</p> <p>Standard of Proof: Beyond Reasonable Doubt</p> 

Terms:

- Onus of Proof: Who has to prove the case by meeting or exceeding the standard of proof.
'Brings the Action'
 - Criminal = Prosecution
 - Civil = Plaintiff
- Standard of Proof: The unquantifiable amount of proof that must be shown.
 - Criminal = Beyond reasonable doubt
 - Civil = A 'preponderance of the evidence' OR Balance of Probabilities
- Injunction – Court order
- Statute of Limitations – There is an 'expiry date' on how long you can wait to take legal action

Judge and Jury


- Jury = less prevalent
- Used to have to be unanimous
- Now, if there is more than one dissenter -> hung jury -> whole new trial or drop the case
- If there is no jury, the judge has all functions
- If there is a jury:
 - Judge - Law and punishment
 - Jury - Facts/truths and verdict

Week 2

Management and Administration -> Business Organisations

If you as a director of a business, trade while insolvent (unable to pay debts), you are personally liable.

Any business must have a formal legal structure under which it operates (article example: Cronulla Sharks sacking then re-hiring 4 staff members resulting in the resignation of management [Cullen]).

- **Sole proprietor**
 - **Partnership**
 - **Company** (Limited by guarantee = NFP)
- 
- For Profit + Covered by State Law
- **Association** – Not-for-Profit (Profits must be reinvested into the activities of the association + they don't pay tax)
Covered by Federal Law

Difference between the Owner and the Name (of the Business)

- We are interested in the OWNER (the legal entity)
- The owner and the name are rarely the same

To start a business, you need:

- **ABN** – Australian Business Number (through ASIC online)
- **Business Name** – if you are using a name other than your own (which you're entitled to)

Registration of your business name is necessary so they can find you