

LLB107 Quiz study guide

statute law/ legislation = law made by the Commonwealth, State and Territory Parliaments

Common law = for present purposes, the law made by judges in the exercise of both common law and equitable jurisdiction.

These sources of law do not exist independently of each other

Importance of stat interpretation

- Used by courts to determine the rights of parties in cases
- Used by lawyers, counsels and courts
- The common law is entangled with statutes
- Almost all judicial work in Aus depends on construing and applying statutes
- Most legal disputes that arise in Aus involve the interpretation of one of more statutes

Public law and statutory interpretation

- Public law = body of legal principles that govern the relationship between state and individuals
- Three main branches of government = parliament, executive and courts
- Parliaments make legislation
- The executive administer legislation
- The courts interpret legislation

Public law principles inform the distribution of powers between the three branches of government.

The rule of law

- Requires the supremacy of law. No one is above the law, it applies to everyone equally
- Operates to constrain the arbitrary exercise of gov power
- The Australian constitution places legal limits on the powers of the Parliament and the executive and those limits can be enforced by courts
- Forms an assumption on constitution

Joseph Raz

- Thin/ procedural conception
- The conditions required for the rule of law are procedural
- The rule of law has two aspects:

1. that people should be ruled by the law and obey it, and
2. the law should be such that people will be able to be guided by it.... [i]f the law is to be obeyed it must be capable of guiding the behaviour of its subjects. It must be such that they can find out what it is and act on it.

The principles that are required to achieve this vary from society to society. However, they may include that:

- laws be prospective rather than retroactive;
- laws be open and clear;
- laws be 'relatively stable' and not changed 'too often';
- open, clear and relatively stable rules and procedures for the making of laws;
- principles of natural justice (including open and fair hearing, absence of bias) be observed in the administration of laws;

Statute Law Study Guide

Stephen Barkoczy



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Study Guide to John E. Sherry, "The Laws of Innkeepers" Gwen Seaquist, 1993 A study guide for undergraduate students taking a law course as part of their hospitality management program designed as a companion volume to the third edition of The Laws of Innkeepers by John E H Sherry It includes summaries of cases and principles detailed in the textbook numerous examples and review questions to help students apply legal principles to practical problems Annotation copyright by Book News Inc Portland OR

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