



Civil Law and Criminal Law.

By

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Health and Safety for Beginners - HSfB

Criminal Law



- Criminal law is concerned with offences against society generally. Crimes are actions which violate the basic rules and principles by which society lives.
- The aim of a criminal prosecution is to punish the offender with financial penalties or imprisonment.

Criminal Law – Burden of Proof

- An important point which distinguishes criminal prosecutions from civil cases is that the **BURDEN OF PROOF** - the means of demonstrating that the offence has, indeed, been committed - has to be ***"Beyond Reasonable Doubt"***.

Criminal Law

- **Magistrates Court** - Minor offences
- **Crown Court** - Judge and jury
- **Crown Prosecution Service** - England
- **Procurator Fiscal** - Scotland
- **Director of Public Prosecutions** - Northern Ireland

Civil Law



- Civil law is concerned with the rights and duties of individuals (and organisations) towards each other. Violation of these established rights and duties are known as **TORTS** (legal wrongs). The main one affecting health and safety being that of negligence.
- Civil cases comprise an action brought by one person against another in order to seek restitution for some form of wrong-doing.

Civil Law



- Civil actions are heard in either the County Court, for minor cases, or the High Court before a judge (and in certain cases, a jury). The action must be initiated by the aggrieved party.
- The remedies sought are to put right the wrong committed, i.e., compensation (damages), for losses incurred. Payment made by the defendant.

Civil Law – Burden of Proof

- The **BURDEN OF PROOF** in civil cases is different to that applied to determine the outcome in criminal cases. Here the case may be decided "*on the balance of probabilities*".

Common Law and Statute Law

- Common law - - rules of behaviour accepted by society on the basis of established *custom and practices*, as evidenced by decisions in the courts.
- Statute law - legislation contained in precise written statements of requirements *emanating from parliament*.

Common Law – The Doctrine of Precedence

- The **DOCTRINE OF PRECEDENCE** requires that an inferior court always follows the decisions of a higher court. Thus, once a judgment has been made in a particular case, that decision will apply in any future cases which match the particulars of the first.
- Cases which set precedence are invariably determined by the highest courts in the legal system, (primarily the **COURT OF APPEAL OR THE HOUSE OF LORDS**).

Common Law – The Doctrine of Precedence

- The effect of this doctrine is to ensure consistent application of the law throughout all the courts in the land.
- This allows the law to be continually revised and reinterpreted "***in the light of current values and experiences.***"

Common Law – The Doctrine of Precedence

- One of the drawbacks of case law is that, despite the doctrine of precedence, the outcome of cases, remains, to some extent, uncertain.
- If it can be shown that the particulars of a case are different from any that precede it, then there is, effectively no law to be applied.
- The court may be guided by the principles applied in previous judgments in similar cases, but is not bound by them.

Statute Law

- This is written law, produced through the parliamentary process, and contained essentially in Acts of Parliament.
- This form of law supersedes all other forms of law since Parliament is supreme in the land.

Delegated Legislation



- Not all aspects of statute law are contained in the actual Acts of Parliament.
- It is often the case that an Act sets out the general principles and empowers the government or some other official body to issue further requirements which provide the detail.
- Legislation formed in this way is known as **Delegated Legislation** and is set out in **STATUTORY INSTRUMENTS.**

Delegated Legislation

- Although, because of the supremacy of Parliament, no-one can challenge the authority of an Act of Parliament in the courts, it is possible to question the validity of delegated legislation and other decisions taken by bodies under powers granted to them by an Act of Parliament.

Delegated Legislation

- Decisions may be questioned as follows:
- The minister or body concerned may have exceeded his authority in the particular circumstances ("*ultra vires*" - beyond one's powers).
- The decision offended against some aspect of the common law.
- Actions are taken under civil law and would be brought against the minister or body by a person who was aggrieved by the decision or the requirement to comply with the regulations.
- If the action is successful, the regulations or decision would be void. Thus, the courts may become involved in the interpretation of Acts of Parliament as they are applied in practice, and case law may be built up to define further the provisions of statute law.



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