

SECTION A

LAW AND ETHICS IN BUSINESS.

- When laws are broken, there are consequences such as imprisonment or fines.
- Breaches of ethical principles are not usually open to legal penalties (sanction) but there may be other consequences such as brand damage.
- **Law may not be broken, but the activity may be 'ethically wrong'** and cause brand damage that stops people from buying your products. E.g buying socks from sweatshops.
- Ethics govern some professions such as accountancy where they have a Code of Ethics. If it is breached, you may be unable to practice as an accountant anymore.

CONSTRAINTS ON BUSINESS.

- **Fair Trading Act:** based on ethical principles. Makes it illegal for businesses to mislead consumers.
- Business (**Code of Ethics**) Sets out rules or guidelines, the company's values, objectives and responsibilities

FACTORS AFFECTING DECISION MAKERS IN BUSINESS

- Code of ethics and your own ethical/ moral principles
- Employment Law
- Sometimes, ethical and moral problems can arise in a business environment. E.g. although party pills are legal to sell, they are targeted at younger individuals which makes it ethically wrong.
- A business could be acting legally but not acting ethically. E.g importing goods they know are made in sweatshop conditions.

LEGAL & BUSINESS FRAMEWORK

Legislature- States internal decision making organisation. Legislature makes the law. E.g queen, governor general, house of parliament, house of representatives.

SOURCES OF LAW

- Legislation (also known as act/statute): **Law passed by Parliament**
- Primary source of law and **overrides case law** (e.g a judge can make a new law but the Parliament can disagree with it)
- Parliament can authorise others to make **delegated legislation** (secondary), meaning they allow local bodies under the Parliament to make laws. (e.g city council giving parking tickets)

THE COURTS/JUDICIARY- system of courts that interpret and apply the law in the name of the state.

- courts make case law (judge made law made in an incremental way (bit by bit))
- Courts are independent. **They don't have to follow what the government says.** They interpret the law, not make it. However, by interpreting the law, they are making laws.
- Case law is made of decisions (judgements) of the court.
- Only some parts of judgment make new law.

CONVENTIONS/CUSTOMS- set of agreed or accepted standards often taking the form of a custom.

- Conventions are practices recognised over time
- They only relate to the constitution
- They are **not enforceable**. You can't go to the court and challenge the government if they haven't followed it.

SEARCHING FOR THE LAW

- Not all laws are found in statutes. Even if a law is in a statute, you have to look for any cases that have interpreted the statute so the case and statute can be used together.
* E.g. If a case says something means X instead of Y, the court must follow it.
- If there is no statute, look for a relevant case law
- If there is no statute or case law, the individual has done nothing wrong. However, it could be unethical.

If there is a conflict:

- Between statute and case law : statute prevails
- Between two statutes: the later in time prevails
- Between two cases, the ruling of the higher court prevails

PART B

CONSTITUTION OF NEW ZEALAND

- NZ has an **unwritten constitution**. **(VERY IMPORTANT.)** It is not found in one place. It can be found in statutes, court decisions and conventions.
- Constitutions are rules governing the powers of the government. Their powers are limited.
- Businesses need to understand the constitution so they know what the government can and can't do.
- Only the Parliament can pass laws. If the government wants to pass a law, it depends on the number of votes in Parliament.
- Parliament is the supreme law making body. Courts will always be overruled by the government.
- NZ does not have a higher law. Legislation cannot be overturned by the courts. It can only be overturned by other Parliaments.
- Courts cannot strike down legislation.

NZ'S CONSTITUTIONAL STATUTES

- Bill of Rights Act 1988
- NZ Bill of Rights Act 1990
- Constitution Act 1986
- Electoral Act 1993

Bill of Rights Act 1688

- Gives Parliament **sole right to make or unmake law**
- **Complete freedom of speech** (they can't be imprisoned for saying something. However, this only applies to a certain extent. You can't break a defamation law) this only applies within the debating chamber, not outside. They can be imprisoned if said outside of parliament.
- **Sole right to suspend or dispense with laws** (apply the law)
- **Sole right to give consent to taxation.** (Raise a tax or say someone has to pay tax)
- Government cannot enforce a law without going through Parliament.

NZ Bill of Rights Act 1990

- right not to be unreasonably detained
- right not to be searched without just cause
- right to freedom of expression
- right to freedom of association

*These rights can still be taken away and NZBORA IS CONSTITUTIONAL LAW. **It cannot override Bill of Rights Act/ the Parliament's laws.**

Constitution Act 1993

- NOT a constitution
- Statutory rules governing the STRUCTURE of the government in NZ
- Sets out the ROLES of people in the government/Parliament
 - The Sovereign (The Queen/ Governor General)
 - The Executives (Cabinet) –executes or enforces law
 - The Legislature (Parliament) – people responsible for passing law
 - The Judiciary (courts)

The Electoral Act 1993

- Provides rules on how elections are conducted
- The voting age
- Prohibits amendment of some sections unless
 - 75% vote in Parliament
 - Majority in popular referendum

NZ's Principal Constitutional Doctrines

- Parliament Sovereignty
- Prerogative Power
- Rule of Law
- Separation of Powers

These doctrines are recognised by courts. Each of these doctrines will be considered in turn.

1) Parliamentary Sovereignty (Parliamentary Supremacy)

- Means Parliament can pass any law it likes. In particular:
 - Judicial subordination: The courts have to do what the parliament says. (They must follow the relevant act)
 - No parliament can bind its successors. This means a later Parliament can change any act passed by former Parliaments.

2) Prerogative Powers

- These powers originally belonged to the queen or king but many were removed by Parliament.
- Examples of prerogative powers today are:
 - Grant Honours (knighthoods etc)
 - Pardon offenders
 - Assent to bills

3) Rule of Law

- You can only be accountable for something if you have broken a law. If there is no law preventing you from doing something, you can do it. However, it may be unethical.
- No one is above the law.
- Does not affect power of the Parliament. They can still make whatever law they choose.

Separation of Powers (Three Arms of government)

- The legislature : passes or makes statutes (legislation / Acts of Parliament)
- The Judiciary: interprets legislation to find out what the Parliament intended
- The executive: implements the laws of Parliament and rulings of the courts

CONSTITUTIONAL CONVENTIONS

- Affect the behaviour of government
- Cannot be enforced by a court (are not justiciable)
- Are non-legal rules of a political or constitutional nature
- Are useful to keep the political machine running

E.g : The Caretaker Convention: states that a government that has lost an election cannot make any new laws while waiting for the new government to take control. Since they have lost the confidence of the public, they act as a 'caretaker' for the new coming government.