

Law in 101 words

Snippets from *The Reduced Law Dictionary* by Roderick Ramage

Changing employment terms

You cannot change your employees' contracts unilaterally. If you do so you risk that disgruntled employees will refuse the change and claim for unfair dismissal. You must have a good reason for the change and introduce it through a fair procedure, eg:

- 1 invite employees to agree;
- 2 consult fully;
- 3 warn that a refusal will result in a dismissal;
- 4 final warning;
- 5 notice of dismissal and simultaneous offer of new employment; and
- 6 implementation.

Stage 5 takes up to 12 weeks, say three months, plus two for stages 1 to 4, so you need about five or six months.

Disclosing know-how

How much do you put on your website? Or hand out freely? I visited a client with my IP partner, who was horrified that I had handed my entire precedent employment contract to the client's HR manager. I told him what my publisher had said to me about making law articles freely available on the web. "It's lifting your skirt to show an ankle," he said: "But you don't disclose the Crown jewels."

The senior clerk at Queen's Square Chambers put it another way: "You cast your bread on the waters and hope it will come back as smoked salmon sandwiches."

Expressions of time

Unless otherwise agreed, "month" means a calendar month (LPA 1925 s 61) and "year" is usually defined as a calendar year starting on 1 January, regardless of the number of days. It is better to say "four weeks" or "28 days" than "lunar month". A day is normally the period of 24 hours from midnight to the following midnight, but, in *Cornfoot v Royal Exchange Assurance Corporation* (1904),

the apparent intention of the parties was that 30 days meant 30 consecutive periods of 24 hours and not 30 calendar days. A period "starting on 1 January" starts at midnight on 31 December.

Landlords in repudiatory breach

Mr Hussein and others took a shorthold lease of a house from Mr Mehlman. The ceiling of a bedroom collapsed, making it uninhabitable, and the space heating failed. The landlord, in breach of the covenant implied by s 22 of the Landlord and Tenant Act 1985, refused to make the necessary repairs. The tenants claimed that the landlord was in repudiatory breach of the lease, which they accepted by returning the keys and giving up possession and the landlord claimed breach of contract. In *Hussein and others v Mehlman* (1992) the court upheld the tenants' claim and awarded damages against the landlord.

Policing thugs

A Warrington family man, who confronted known thugs outside his own house, was killed in front of his family, his head kicked in by the same thugs, and the Cheshire Chief Constable said: "I think society is beginning to see the events of today as a tipping point where we all have to take action on antisocial behaviour." Thank you. Now we can go home and feel safe. What I feel, and suspect that society feels, is that we would rather hear less

from but see more of the police. Only our laws tie their hands so they can't do anything.

Settled in court

"Aren't you meant to be in court?" The managing clerk handed me the file; and I arrived in court late, unprepared and with no witnesses, as the plaintiff's barrister, Michael Lever, was opening his case. "Your honour:" he said: "Would you allow 10 minutes' recess, now the defendant's solicitor has arrived?" Outside he proposed a settlement, which I willingly accepted (and which my client, a second-hand car dealer, deserved), and we returned to court to tell the judge that the case was settled. I am still grateful for that example of how to win your case without humiliating the other side.

Waiver and consideration

Mr Beer obtained judgment against Mrs Foakes for £2,077/17/2, plus £13/1/10 costs and interest until paid. Mr Beer then agreed that he would not claim the interest, if Mrs Foakes paid £500 immediately and the balance by instalments of £150. Mrs Foakes complied with the agreement, but Mr Beer sued for the interest. The court in *Foakes v Beer* (1834) held that he was entitled to interest because payment of the debt itself was not consideration. There was no new contract for the waiver of interest. Nominal consideration would suffice or the waiver agreement could be by deed with no consideration. NLJ

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Arbitration and human rights

Mr Stretford held a licence from the Football Association to act as a football players' agent. In 2005 the FA started disciplinary proceedings against him in connection with his acquisition of the right to represent Wayne Rooney. Mr Stretford sought a declaration that the disciplinary proceedings did not comply with Art 6 of the European Convention on Human Rights (Human Rights Act 1998 Sch 1) to have his case heard by an ordinary court. The FA obtained a stay of those proceedings. An arbitration clause can be a waiver of a person's rights under the ECHR: *Stretford v Football Association* (2006).