

# Law in 101 words

## Snippets from *The Reduced Law Dictionary* by Roderick Ramage

### Assured shorthold tenancy

With effect from 28 February 1997 any new assured tenancy is automatically an assured shorthold tenancy (Housing Act 1988, s 19A (inserted by HA 1996), except in as set out in Sch 2A. There is no need for these new tenancies to have a minimum fixed term of six months or for there to be a prior landlord's notice. The court must make an order for possession on or after the tenancy comes to an end, if the landlord has given not less than two months' prior notice to the tenant stating that he requires possession. No reason needs to be stated.

### Court of Appeal

The job of the Court of Appeal is to put things right if the courts below get the law wrong, but not everyone seems to see it that way. *The Times'* weekly law section has a strip cartoon. Amongst the stock characters who appear in it is the pompous Sir Humphrey QC. One week he was shown speaking to a colleague in chambers, a High Court judge.

"I notice that the CA upheld your decision in *A v B*."

There was a pause, while the learned judge weighed his words.

"Well, yes," he replied: "But I still think I was right."

### Employment abroad

In *Sayers v International Drilling Co NV* (1971) an Englishman employed by a Dutch company under a contract written in American English was injured in an accident on an oil rig in Nigerian waters, and doubts arose as to the proper law of the contract, for want of a clause to the effect of: "This agreement is governed by [English] law and the parties consent to the exclusive jurisdiction of the [English] courts in all matters regarding it." For guidance on the territorial extent of statutory employment protection rights, see *Serco v Lawson*, *Botham v MoD*, *Crofts v Veta Ltd* (2006).

### Limited liability partnerships

There are two kinds of limited liability partnerships. Under the Limited Partnership Act 1907, only the "sleeping" partner, enjoys limited liability, but the general (working) partners remain personally liable. The Limited Liability Partnerships Act 2000 created a new form of legal entity known as a limited liability partnership, which is a body corporate separate from its members. It has unlimited capacity, but the liability of all its members is limited. Two or more persons carrying on a lawful business with a view to profit may form an LLP by signing an incorporation document and registering it with the Registrar of Companies.

### Power of attorney by trustee

THIS GENERAL TRUSTEE POWER OF ATTORNEY is made on [date] by [name of donor] of [address] as a trustee of [name or details of the trust]. I appoint [name of donee] of [address] to be my attorney [(if desired) for a period [x] months from [date]] in accordance with s25(5) of the Trustee Act 1925.

Date

Signed as a deed by [name] in the presence of:

Note. The donor must either before or within seven days after making the power give notice with prescribed particulars to the co-trustees and any person with power to appoint a new trustee (or as appropriate).

### Sex discrimination

On the 12th of November 1975 Mr Crowe, one of Radio 3's great announcers, said that they were playing two Scarlatti cantatas. In the first, by the elder, Alessandro, Judith, who had found Holofernes defenceless in post amorous slumber, with a single blow smote off his head, while in the second, by Alessandro's son Domemco, the hero, being disappointed in love, retired to the peace of the country and forsook women for the pleasures of nature. The BBC was thereby demonstrating its willing compliance with the Sex Discrimination Act, which came into force that day, by discriminating equally against both sexes.

### Trustees' discretions

Guaranteed Minimum Pensions are payable to men at 65 and women at 60. One question in *Leadenhall Independent Trustees v Welham and Frith* (the Maycast case) (2004) was whether pension scheme trustees, in applying part of a surplus, could in the exercise of a power, pay greater increases for male than female members in order to neutralise the discriminatory effect of the GMPs. Discretionary powers need not be exercised identically for all beneficiaries, but the difference in its exercise must be based on rational criteria as opposed to being arbitrary or capricious. The trustees could properly distinguish between men and women. NLJ

Roderick Ramage is a solicitor in private practice at [www.law-office.co.uk](http://www.law-office.co.uk)

## Garnisheeing bank accounts



Manchester's stype spoke at the local Lit & Phil. At the start of the War, he had been defending the NE coast. It would not have mattered if the Germans flying overhead had known that he had no bullets, as his gun was only a wooden mock-up. He felt much the same as a magistrate upholding law and order. But the Home Office had recently given them power to garnishee offenders' bank accounts. What the Home

Office had overlooked was that few of his customers had bank accounts or even knew how to get into a bank, except through the roof.