

Law in 101 words

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

Definitions—where the context admits

Some definition clauses include the words “unless the context otherwise admits” or “where the context admits”, which may be implied: *Meux v Jacobs* [1875]. The better course is to use defined terms, whenever practicable, in such a way that there are no circumstances where the defined meanings do not apply. The usual means of doing so is by using capital initial letters for the defined terms: this requires a scrupulous avoidance of the all too common secretarial “pepper pot” technique of applying capitals to initial letters more or less at random to important looking words, such as “this Agreement” or “Director”.

Data protection & the police

The Information Tribunal held that certain old convictions should be removed from the Police National Register on the ground that the only purpose for which the data could be retained was for core or operational police purposes. In *Chief Constable for Humberside and others v Information Commissioner and another* [2009] the CA disagreed. The grounds were a misinterpretation of the Data Protection Act 1998. It is for the data controller to identify the purpose for which data is retained. One of the purposes registered by the police was to supply accurate information about convictions to the CPS. The appeals were allowed.

Holiday illness

If the Employment Tribunal decision in *Shah v First West Yorkshire* [2010] is followed, it will not matter that you fall ill during your annual holiday leave, because there will be implied into the Working Time Regs words to the effect that the restriction against carrying holiday leave forward to the next year will not apply if the worker has been prevented by illness from taking it.



“ The impact could be the right to long holidays on return to work ”

This decision follows the ECJ in *Pereda* [2009], which is binding only on public employees. The impact on cases of long-term sick leave could be the right to long holidays on return to work.

Kazakhstan law ousted

Two companies, both registered in Kazakhstan, made an agreement to produce hydroelectricity in Kazakhstan, and disputes arose between them. An arbitration clause in the agreement stated that disputes were to be governed in accordance with English law. In *AES*

UST-Kamenogorsk Hydropower Plant LLP v UST-Kamenogorsk Hydropower Plant JSC [2010] the QBD made a declaration and continued an anti-suit injunction to prevent one of the parties from proceedings being brought in Kazakhstan: EWHC 722 (Comm). No arbitration had been started or was intended, but the court “must take great care not to usurp the arbitral process”: see *Cetelem v Roust Holdings* [2005].

Permitted additions

Where an individual or partnership carries on business in the United Kingdom, the Companies Act 2006 s 1200 and 1201 require the disclosure of their names unless their business name consists of their surnames or corporate names with or without permitted additions, ie:

- for an individual, his forename or initial;
- for a partnership, the forenames or initials of partners who are individuals and, if two or more have the same surname, the addition of “s” at the end of the surname; and
- in either case an indication that the business is carried on in succession to a former owner of the business.

Remoteness of damage—blocked drain

Under *Hedley v Baxendale* [1854] did the loss arise in the ordinary course or alternatively was it in the contemplation of the parties when they made the contract? In *Supershield v Building Technologies* [2010] a contractor, who had installed a water tank with a float valve, argued that it could not have been foreseen that the overflow drain would be blocked and that the alarm would not be monitored, and therefore, when the valve failed and the building was flooded, the damages were too remote. Not so, said the CA. The failure of the backups did not diminish the contractor’s responsibility.



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Nil-rate legacies

In *RSPCA v Sharp* [2010], the testator left his house to friends (with a direction for IHT to be paid out of residue), a pecuniary legacy of the maximum that could be given without IHT to friends and his brother and the residue to the RSPCA. The RSPCA argued that the pecuniary legacy should be the balance of the nil-rate band after deductions the value of the house, which would increase the residue substantially because there would have been no IHT. The judge held that the RSPCA was clearly wrong and the pecuniary legacy was equal to the nil-rate IHT band.

