

# Law in 101 words

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

### Defamation

Defamation is a form of tort. A defamatory statement is one which is made to a third party and disparages a person's good name or the esteem in which he is held. If it is in writing it is a libel and damage is presumed, but if it is oral it is a slander, which is generally not actionable without proof of special damage. The main defences to a claim for defamation are justification (ie that the words are true), fair comment on a matter of public interest and absolute and qualified privilege. See also the Defamation Acts 1952 and 1996.

### Durham fancy goods

In the good old days the Companies Act 1985, s 349 (1948, s 108) imposed personal liability on any person who signed a cheque, order for goods etc in which the company's name is not properly stated. In Durham a bill of exchange in the name "M Jackson (Fancy Goods) Ltd" was accepted by Mr Jackson without correction. The name should have included Michael, not the initial M. He was personally liable when the bill was not paid by the company. The 2006 Act, s 82 omits this useful provision, but regulations under it provide for a fine, and s 83 might help a defendant.

### Notice periods

An unqualified number, eg 14 days' prior notice, may mean that there is only one day on which the notice can be given, but, if that is intended, it should, to avoid doubt, be expressed, as "14 days and neither more nor less than 14 days". Otherwise the period should be "not less (or more) than 14 days". "Fourteen clear days" means that 14 days must elapse between the dates. Uncertainty whether the period is inclusive or exclusive of the date of the notice or its effect may also be avoided by words such as "before (date)" or "ending on (date)".

### Remoteness of damage— blocked drain

Under *Hedley v Baxendale* (1854) 23 LJ Ex 179, [1843-60] All ER Rep 461 did

the loss arise in the ordinary course or alternatively was it in the contemplation of the parties when they made the contract? In *Siemens Building Technologies FE Ltd v Supershiield Ltd* [2010] EWCA Civ 7, [2010] 2 All ER (Comm) 1185 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 Court of Appeal. The failure of the back-ups did not diminish the contractor's responsibility.

## “A woman's bikini bottom worn in a swimming pool's changing cubicle was not underwear”

### Sperm as property

Chemotherapy can damage a man's fertility. Southmead Hospital treated six men for cancer and suggested that they produce samples of semen before their treatment, which it would freeze and store for future use. The freezer broke down and some sperm thawed.

In *Yearworth and others v North Bristol NHS Trust* [2009] EWCA Civ 37, [2009] 2 All ER 986, five of the men and the administratrix of the sixth sued for damages and lost at first instance. The Court of Appeal allowed their appeal, holding that, given the purpose for which the sperm was held, it remained the men's property and the hospital was in breach of its duty of care.

### The Law Society

The Law Society is a body incorporated under Royal Charters from 26 February 1845 to 10 March 1954. The solicitors' profession however dates

back to: (i) "attorneys" appointed since medieval times by judges of the Courts of Common Law; (ii) "solicitors" appointed by the Court of Chancery; and (iii) "proctors" appointed by the Courts of Civil Law (Admiralty and Church courts). In 1739 all three groups came together in the Society of Gentlemen Practitioners, an influential but voluntary body. The groups eventually accepted the one word "solicitors". The organisation became the "Incorporated Law Society" and subsequently the "Law Society".

### Towels are not underwear

The Sexual Offences Act 2003, s 68 contains the voyeurism offence, which occurs when a person, without the consent of the other person, observes the other doing a private act, which occurs (inter alia) when, in a place reasonably expected to provide privacy, a person's buttocks, genitals or breasts are exposed or covered only with underwear. There was no offence in *Police Service for NI v MacRitchie* [2008] NICA 26, [2009] NI 84 because

a woman's bikini bottom worn in a swimming pool's changing cubicle was not underwear. Presumably there would also be no offence if, when observed, she had covered herself with only a towel.

### Whinging claimants

When the new QE2 set sail from Southampton with fitting-out work incomplete, workmen sailed with her to finish the job in mid-Atlantic.

On arrival at New York, Cunard apologised to the passengers affected by the work and offered them free holidays, but the ungrateful whingers, goaded on by greedy lawyers, wanted more and sued. I, and I hope you too, would have welcomed the challenge of, say, flooded corridors and dodgy electricians as relief from the tedium of sea travel.



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