

Course Name- LL.B 6th sem
Subject- Interpretation of Statute
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Concept – Legislation

Legislation

Legislation

is one of the most **important** instruments of government in organizing society and protecting citizens. It determines amongst others the rights and responsibilities of individuals and authorities to whom the **legislation** applies

- **Legislation** (or "statutory **law**") is **law** which has been promulgated (or "enacted") by a **legislature** or other governing body or the process of making it. **Legislation** can have many **purposes**: to regulate, to authorize, to outlaw, to provide (funds), to sanction, to grant, to declare or to restrict.

What is Legislation

- Legislation is written against the background of the general law. The general law is the law that exists apart from legislation. The general law consists of the common law and the principles of equity, which are applicable in Queensland because of its history as a colony of the United Kingdom. The general law emerged from the history of the United Kingdom and did not rely on laws made by Parliament for its existence.
- The general law is commonly referred to as judge made law because it is found in decisions of judges on particular cases brought before them. However, generally speaking, the contemporary role of a judge is essentially to declare the existing general law, not to make new law.
- In Australia, only a Parliament may make legislation or authorise the making of legislation. However, because judges have the role of applying the laws of interpretation, if there is a dispute about the meaning of legislation, the judges decide the dispute.
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Importance of Legislation

- Legislation is at the heart of an effective tobacco control program. Any comprehensive tobacco control program requires the drafting and adoption of legislation and the introduction of regulations. A society's laws are the most solemn and formal articulation of its values; they recognize, reinforce and give permanence to a society's norms. When a government imposes a comprehensive ban on smoking in all public places, for example, it not only protects the public in general, but also declares the will of the society for a smoke free environment.
- 1. Legislation serves to institutionalize a tobacco control program. In contrast to the *ad hoc* and intermittent initiatives that might be undertaken by a health ministry or other government office in the absence of legislation a program grounded in comprehensive legislation
- 2. It helps to ensure programmatic continuity as officials, governments and government priorities change over time. With comprehensive approaches to tobacco control, legislation helps to integrate the diverse components of a multifaceted program .
- 3. It typically establishes a national focal point for activities relating to tobacco control and mobilizes public resources and institutions in support of the program. It may be that for political and other reasons, some countries prefer enactment of separate legislative instruments covering various aspects of tobacco control. Other countries may prefer to adopt laws in the form of binding rules, resolutions, regulations or orders pursuant to an existing legal authority vested in an agency as is the case with the National Agency of Sanitary Surveillance (ANVISA) in Brazil.
- 4. It may also be that some countries choose to adopt policy instruments without legal force. However, examples of tobacco control programs grounded in a comprehensive legislation in Norway, South Africa, Brazil, India, Australia, Canada, Ireland, Thailand and New Zealand show the importance countries attach to legislation as the core tool for tobacco control.
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Why legislation is needed

- Under the general law, a person may obtain rights or be subject to obligations because of a particular legal relationship with another person. The relationship may arise because of agreement or because of a document made by a person conferring a power over the person's property on another person. It may be a legal relationship found to exist because of a civil wrong committed by a person. These relationships are essentially narrow in their ambit and can not be unilaterally created under the general law for all citizens or for all citizens of particular classes.
- Only legislation, properly authorized and made, can unilaterally create or change rights and obligations of citizens generally, or change or affect the operation of the general law.
- Legislation may also be an option chosen to present a policy in a particularly powerful way or to create a state of affairs that can only be further changed or brought to an end by legislation.

How legislation operates on a matter

- Legislation may have its effect for a matter by:
- directly deciding the matter
- authorizing someone else, that is, delegating the power to someone else, to make a law about the matter or decide the matter.
- Legislation may incorporate another document by reference, whether or not the other document is itself legislation. Legislation may empower someone to make an instrument that is given effect to under the law. The instrument may be legislative in character or it may be administrative in character. The significance of its legislative or administrative character depends on the particular context.
- The scheme of a particular piece of legislation consists of the directly applicable rules of conduct set out in the legislation and the way the legislation operates through other laws, legislation, documents, instruments and decisions. The way a scheme is constructed can depend on convenience of presentation, on practicality or on principles about the appropriateness of levels of power being used or delegated.
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