

A The structure of the law

The legal system in the United Kingdom (UK)

The study of law distinguishes between **public law** and **private law**, but in legal practice in the UK the distinction between **civil law** and **criminal law** is more important to practising lawyers. Public law relates to the state. It is concerned with laws which govern processes in local and national government and **conflicts between** the individual and the state in areas such as immigration and social security. Private law is concerned with the relationships between **legal persons**, that is, individuals and corporations, and includes family law, contract law and property law. Criminal law deals with certain forms of **conduct** for which the state **reserves punishment**, for example murder and theft. The **state prosecutes the offender**. Civil law concerns relationships between private persons, their rights, and their duties. It is also concerned with conduct which may **give rise to a claim** by a legal person **for compensation** or an **injunction** – an order made by the court. However, each field of law tends to overlap with others. For example, a road accident case may lead to a criminal prosecution as well as a civil action for compensation.

Substantive law creates, defines or **regulates rights, liabilities, and duties** in all areas of law and is contrasted with **procedural law**, which defines the procedure by which a **law** is to be **enforced**.

B The constitution

The **head of state** is the monarch, currently the Queen in the UK, but the government carries the authority of the Crown (the monarch). The Westminster Parliament has two **chambers**: the House of Lords and the House of Commons, which **sit separately** and are **constituted** on different principles. The Commons is an **elected body** of members. Substantial reform

is being carried out in the **upper house**, the House of Lords, where it is proposed that the majority of members be **appointed**, with a minority **elected**, replacing the hereditary peers. There is no **written constitution**, but **constitutional law** consists of **statute law** (see Unit 2), **common law** (see Unit 3), and **constitutional conventions**.

C Jurisdiction

There are four countries and three distinct **jurisdictions** in the United Kingdom: England and Wales, Scotland, and Northern Ireland. All share a **legislature** in the Westminster Parliament for the making of new laws and have a common law tradition, but each has its own **hierarchy of courts**, legal rules and legal profession. Wales and Northern Ireland each have their own **Assembly** and since 1999 Scottish **Members of Parliament (SMPs)** have sat in their own Parliament. **Under an Act** of the Westminster Parliament,

the Scottish Parliament has power to **legislate** on any subject not specifically **reserved** to the Westminster Parliament such as defence or foreign policy. The UK's **accession to** the European Communities in 1973, **authorised** by the European Communities Act 1972, has meant the addition of a further **legislative authority** in the legal system. The UK is also a **signatory of** the European **Convention of Human Rights** and this has been **incorporated into** UK law.

1.1 Complete the definitions. Look at A opposite to help you.

- is law relating to acts committed against the law which are punished by the state.
- is concerned with the constitution or government of the state, or the relationship between state and citizens.
- is rules which determine how a case is administered by the courts.
- is concerned with the rights and duties of individuals, organisations, and associations (such as companies, trade unions, and charities), as opposed to criminal law.
- is common law and statute law used by the courts in making decisions.

1.2 Complete the sentences. Look at B and C opposite to help you. There is more than one possibility for one of the answers.

- In many systems a president rather than a monarch is
- The UK system has a parliament with two
- As in other countries, the courts are organised in a of levels.
- The Scottish Parliament has the to legislate on subjects not reserved to Westminster.
- The EC is an important legislative in most European countries.
- A number of international have been incorporated into national law.

1.3 Complete the table with words from A, B and C opposite and related forms. Put a stress mark in front of the stressed syllable in each word. The first one has been done for you. Then complete the sentences below with words from the table.

Verb	Noun	Adjective
'constitute	consti'tution	consti'tutional
legislate		
proceed		
convene		
	regulation	
accede		
elect		
authorise		

- The is the body which has the function of making law; normally it is the Parliament.
- It is quite a lengthy process to to the European Community.
- Sometimes a court case can be delayed while counsel argue over problems.

Over to you



Describe some of the distinctive features of your legal system and constitution, first as if to a foreign lawyer, then as if to a foreign lay person.

For more information on the UK Parliament and legislative processes, go to: www.parliament.uk; for the US Senate, go to: www.senate.gov/.

A Background to making new law

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How are laws made in the UK?

The predominant sources of law in the United Kingdom are:

- **primary legislation**, known as **Acts** of Parliament or **statutes**, which begin life as drafts called **Bills** (see B and C below);
- **secondary or delegated legislation**, such as **statutory instruments**, **bye-laws**, and professional regulations.

A new **Act** is **passed** in order to:

- **update** or **amend** existing **legislation**;
- **legislate** for new circumstances and **enforce** government policies;

Parliament can **enact** any **law** it chooses or **repeal obsolete laws** which are no longer relevant, and the courts must enforce it. The exception to this is EU law.

• **ensure UK compliance with** International or European Union (EU) Law;

• **consolidate laws** by bringing together into one statute all the existing statutes on one topic;

• **codify rules** by bringing together all the **case law** and statutes on a particular subject where the principles are established.

Note: Act of Parliament and Bill are always capitalised in legal usage; statute is not. Statutory instruments are delegated legislation created by government ministers. Bye-laws are made by Local Government or public bodies.

BrE: an Act; AmE: a Bill

B Early development of a Bill

The government may proceed to **initiate a consultative process** by the publication of a Green Paper in which its **proposals** are **set out** at an early stage with the intention of attracting public response and comment. The government's White Papers contain their more definite proposals, although these are often

published following consultation or discussion with **pressure groups**, **professional bodies**, or **voluntary organisations**. A Bill does not have to be preceded by a White or Green paper, although it may have been presented for **public scrutiny**, that is, examination, in draft form earlier.

C Passing an Act

All Acts must be **submitted** to both Houses of Parliament in the draft form of a Bill. The legislative process involves three **readings** in both Houses. At the first reading, the title is read to Members of Parliament (MPs); at the second reading, MPs **debate** proposals. Then a standing committee will **scrutinise the provisions** in the Bill and may amend it to ensure that it **enshrines the principles** debated and **approved** at the second reading. This is reported back to MPs. At the third reading, the Bill is **re-presented**. The Bill then goes through readings in the upper house. The actual

drafting of the legislation is **undertaken** by Parliamentary Counsel. Finally, a Bill must receive Royal Assent from the monarch before it **becomes law** on a specified date. In fact, this stage has been reduced to a formal reading of the short title of an Act in both Houses of Parliament and is now a formality.

Government Bills are **introduced** by the Government; **Private Members Bills** are **proposed** by MPs. Both methods may result in **Public Acts** that govern the general public. **Private Acts** affect particular individuals or institutions.

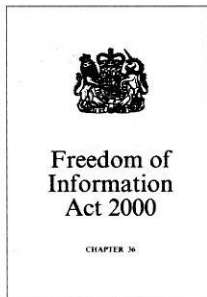
Note: No article (a/the) is necessary in to become law.

- 2.1 Find verbs in A opposite that can be used to make word combinations with the words below. There is more than one possibility for three of the answers.

Parliament can

- 1 Acts of Parliament.
 - 2 new statutes.
 - 3 existing legislation.
 - 4 obsolete law.
 - 5 statute law, case law, and amendments into one Act.
 - 6 law by repealing and re-enacting in one statute provisions of a number of statutes on the same subject.
- 2.2 Complete the sentences. Look at A, B and C opposite to help you. Pay attention to the grammatical context.

- 1 An order made under authority delegated to a government minister by an Act of Parliament is known as a
- 2 A is made by a local authority or a public or nationalised body and has to be approved by central government.
- 3 Charities like Oxfam and Help the Aged can act as, lobbying for law reform.
- 4 The Committee needs to ensure the Bill incorporates the principles agreed so they check it by



An Act of Parliament

- 2.3 A visiting Russian colleague is asking an English solicitor about the legislative process. Replace the underlined words in their conversation with alternative words from C opposite. Pay attention to the grammatical context. There is more than one possibility for two of the answers.

Natasha: How is new legislation enacted?

Charles: Well, initially the (1) draft legislation has to be (2) presented to both houses. The draft is (3) discussed several times. A committee has the job of checking that the Bill (4) incorporates the fundamental elements (5) agreed at the second reading. After this, the Bill is (6) shown again to the lower house.

Natasha: Who does the (7) formal writing of the legislation?

Charles: It's (8) done by qualified barristers employed as civil servants, known as Parliamentary Counsel.

Natasha: Who can (9) put forward Bills?

Charles: The government and, less commonly, MPs.

Over to you



Describe the process of making new law in your country. What are the strengths and weaknesses of the process?

For more information on the UK Parliament and legislative processes, go to: www.parliament.uk. For legislation around the world, go to: www.lexadin.nl/wlg/legis/nofr/legis.htm