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The Institute of Automotive Engineer Assessors

Tuition Course Section 2

***Motor Vehicle Legislation as related
to Insurance Principles***

INSTITUTE OF AUTOMOTIVE ENGINEER ASSESSORS MOTOR VEHICLE LEGISLATION

Motor Vehicle Legislation as related to Insurance Principles

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Motor Vehicle Legislation – Introduction to the Series

Welcome to the completely new, updated, revised and amended series of four Institute work books. These books have had several new features incorporated in the design.

Language

Where possible this has been written in user friendly style, moving away into the formal only when required for strict accuracy. Every attempt has been made to use plain words instead of the more common but difficult multi-syllable words. However, in some subjects such as Legislation and Motor Insurance, there are many technical words that the competent automotive engineer assessor must know well. Therefore the technical words have been left in but the explanation of these is in simple plain language.

Grammar

Long sentences have been pruned and as far as possible correct punctuation has been used throughout the series.

Style

Paragraphs have been clearly laid out with clear space between them to aid reading without undue eye strain. A clear numbering system has been installed to allow for easy reference and regular updating of the text.

Sections and Sub Headings

The start of each section in each volume gives a clear indication of the contents with a numbering system that allows the student to bypass where required and focus on particular aspects of study. More and clearer sub headings have been introduced to aid effective reading.

Boxed or Highlighted Text

To separate out the important facts from the explanation of the facts, the relevant words, sentences or phrases are boxed or highlighted in some way. This is a valuable aid in examination techniques.

Case Law

Where there have been clear decisions on case law, then the decision has been highlighted in some way. There are also collections of relevant stated cases at the end of each section for ease of reference.

Self Test Questions

These are interspersed throughout each volume, with the aim being to bring out the main issues of the text and therefore guide the student towards good examination answers. Answers are provided or notes pointing to a particular number in the text where the answers can be found.

Tutor Marked Assignments

There are five assignments in respect of this volume. It is up to each teaching centre or tutor to decide how, when and in what order they wish to issue these assignments.

Accessible to Different Learning Styles

All the volumes in the series have been written to allow the following methods of learning to be used:

- Direct teaching
- Indirect teaching
- By correspondence with no direct tutor support
- Open Learning with limited tutor support

Assessment

Assessment is competence based and is both formative and summative, allowing for assessment to be by examinations only, assignments and examinations.

Updating Service

Existing volumes in the series can be kept up to date by subscribing to the Update Service. This will replace existing pages with updated text as the legislation changes and as the technology and principles and practices of assessing are developed. Details of this service can be obtained by contacting The Institute of Automotive Engineering Assessors.

Comments

Your comments on the new series – adverse or otherwise (but preferably constructive) – are warmly welcomed and all correspondence will be answered. Please send your letters direct to the Institute.

Motor Vehicle Legislation – Introduction

Introduction to this Volume – Motor Vehicle Legislation

Welcome to these updated notes especially designed and available only to the members of the Institute of Automotive Engineer Assessors. (Note: Any reference to male or female in the notes refers to either sex operating as a Motor Vehicle Assessor.)

Who Would Benefit From These Notes?

These notes are intended for existing practising engineers, as well as body repair/motor repair staff who are in direct contact with engineers or aspire to be an engineer. They would also be a valuable resource for students studying:

- HNC in Automotive Management;
- Professional Institutes courses such as The Institute of the Motor Industry;
- Institute of Road Transport Engineers;
- Chartered Institute of Transport Courses.

How Should These Legal Notes Be Interpreted?

The legislation notes are based on English Law. There are nevertheless details of Scottish legislation for the engineers working in Scotland to help them in their day to day working.

The Scottish legislation notes are not examinable by the Institute.

Synopsis of Contents

This volume has 11 sections. The first four contain essential background material intended to provide underpinning knowledge and comprehension in the application of legislation covered in the subsequent sections, 5-11. The following notes summarise the ground covered by each section.

Note: Sections 1,2,3 and 4 are not examined directly but are examined indirectly in application type examination questions.

Section 1 – The Legal System

This is mainly a background to the effective study of legislation and so the student should not expect examination questions about the 'details' of the English/Scottish Court structure. The student should expect application questions that can only be successfully answered if the background work is well understood.

The English Court structure is examinable concerning definitions and understanding of key legal words and phrases, the concept of expert evidence and in the standard and type of evidence required for the relevant Court approval.

The two divisions of the English Court Structure, Civil and Criminal, are identified in a rank order manner together with brief notes on the role of each type of court. Self Test Questions and answers are included to aid background understanding. Also after this section are legal definitions of key words and phrases that must be clearly understood and learned.

The same approach is provided for the Scottish Legal system. English students are free to bypass this aspect of the notes as the Scottish legal system is not examinable.

For practising engineers in Scotland, however, these are a valuable resource aid to the proper function of their everyday duties.

Section 2 – Evidence

This section is again background, based on the need to understand the rules of evidence, evidence principles and definitions, and Court procedures, both criminal and civil. Note that only the English law system is examinable.

The role of the expert witness – while mentioned in this section – is not covered in detail here but is dealt with in the separate Volume on Assessing.

Section 3 – Civil Court Action

This again is background and it relates to the Civil Court procedures in all the courts. The purpose of this section is to help the engineer understand and correctly use the court procedure.

Section 4 – Criminal Court Action

This again is background and it relates to the Criminal Court procedures in all the courts. The purpose of this section is to help the engineer understand and correctly use the court procedure.

Section 5 – Damages

This section is about damages to persons and property. It covers liquidated and unliquidated damages as well as penalties. It includes types of damage, assessment of damages, remoteness of damage. It provides information on injunctions, subrogation and the rules of compensation. Finally the section ends with a summary of Acts, Regulations, Case Law and legal definitions associated with the compiling and awarding of damages. This subject is fully examinable in all respects.

Section 6 – Contract Law

This is another major area of concern to the engineer in his day to day workings. This section is about contract law, formation, discharge and enforcement and covers also misrepresentation, agency, bailment and lien. This is a major examinable area of the syllabus.

Section 7 – Consumer Law

This section is another major area of concern as it covers all aspects of consumer law from the Sale of Goods Act, Unfair Contract Terms Act, Trade Description Acts, Lien, Consumer Protection, Office of Fair Trading, through to hiring and leasing and pricing and advertising regulations. Again this is a major area of examination.

Section 8 – Safe Use and Construction of Motor Vehicles

This section is examinable in part only but is still important to the engineer's duties. It contains material about the Road Transport legislation, including the Transport Acts, Road Traffic Acts, Construction and Use Regulations and Type Approval as well as lighting regulations.

Section 9 – Law of Tort

This section is another major area of concern to the practising engineer, covering Tort, Nuisance, Trespass, Conversion, Delict and strict liability. This area is fully examinable.

Section 10 – Tort of Negligence

This is the last major area of examinable notes, covering the important area of Negligence – Tort, Elements, Duty of Care, Carelessness, Causation, Nature, Proof, Contributory, Occupiers, Product and Professional.

Section 11 – Arbitration

This is the last section covering a subject that is part examinable but nevertheless is important in the effective operation of assessing. This section covers Arbitration and Valuation in all their aspects.

Tutor Marked Assignments (TMA's)

These are available by separate cover to approved centres only. They are issued by the Institute and reviewed every six months. The cost of this service to the centres is a matter for the Institute to decide.

TMA's assessments are competence based and are both formative and summative, allowing for assessment to be by assignments and examinations only.

All approved centres may offer assignments for consideration to the Institute for inclusion in the bank of TMA's. All assignments are designed with vocational (SVQ/NVQ) competencies in mind.

SECTION 1 THE LEGAL SYSTEM

1.1 What is law?

1.2 The nature of law

1.3 The differences between English law and Scottish law

1.4 The branches of law

1.5 The sources of law

1.6 The court structure in the English legal system

1.7 The civil court structure

1.8 The criminal court structure

1.9 Other courts

1.10 The court structure in the Scottish legal system

1.11 The Scottish civil court structure

1.12 The Scottish criminal court structure

1.13 Other courts

1.14 Summary of Acts, Regulations, stated cases and definitions

1.1 WHAT IS LAW?

Law can be defined as a rule enacted or customary in a community and recognised as enjoining or prohibiting certain actions and enforced by the imposition of penalties.

1.2 THE NATURE OF LAW

It can be seen that the law is a collection of individual rules which govern society and which are compulsory and enforceable.

A breach of a rule forming criminal law has the sanction of punishment. This punishment can take many forms. It may be a fine, imprisonment, disqualification, or community service.

A breach of a rule forming civil law may lead to a court order for compensation or restrict a person's actions.

To apply the law, each country must have a legal system which has:

- Bodies to make the laws;
- Courts to enforce the laws;
- Legal manpower to run the system and offer advice.

This law may have grown up over centuries, or in the case of newer countries, be based on some other country's legal system.

1.3 THE DIFFERENCES BETWEEN ENGLISH LAW AND SCOTTISH LAW

To understand the difference between English and Scottish law we have to delve into the history books. You will be pleased to know that as this is not a history lesson we will only be briefly mentioning this aspect.

English law is based on what is called the Anglo-American class of legal system based on English common law. It is what is called inductive in character, whereby the decisions of the courts give rise to principles of law ie, the principle results from the decision.

Scottish law is derived largely from Roman Law but it has also been subject to common law influences. It is based more on the Continental or Civilian class of legal system than the Anglo-American class. The Scottish legal system is said to be deductive, whereby courts reach decisions by applying general principles of law to the facts of a particular case ie, the decision results from the principle.

In general, English law is statute based whilst Scottish law is based on common law ie, made up of rules of law evolved over many generations when customs practised by people became law.

Nowadays many laws are the same throughout the United Kingdom (UK). When Parliament makes new laws they apply, as far as possible, to the UK, including Scotland. This is not always possible, however, because there are many instances where Scottish law differs greatly from English law and it is often impossible to draft a new law which will fit both systems. Sometimes legislation is enacted specifically for England and Wales, or just Scotland. It is also sometimes enacted with specific sections applicable to England or Wales, and other sections specifically for Scotland.

The following are examples where English law differs from Scottish law.

- Contract Law;
- Tort (in Scotland this is called Delict);
- Family Law;
- Criminal Law;
- Court Structure and Procedure;
- Rules of Evidence;
- Appeal Procedures.

It is for these reasons that some Acts of Parliament apply to the whole of the UK, some to England and Wales only, and some to Scotland only.

1.4 THE BRANCHES OF LAW

There are two main branches of law – public law and private law.

1.4.1 Public Law

This includes constitutional law, criminal law and administrative law. It is generally concerned with administration of Government and duties and rights of the organs of state.

1.4.2 Private Law

This includes the areas of the law of persons, things and actions.

The law of persons is concerned with the duties and rights of human beings and artificial persons eg, registered companies. It includes the law relating to parent and child, and wife and husband relationships.

The law of things is concerned with obligations and property. For example, contract, tort (delict), trusts, succession, conveyancing and bankruptcy.

The law of actions is concerned with court procedure and evidence.

1.4.3 Other Branches Of Law

The other branches of law are:

- Service Law deals with the armed forces;
- Industrial Law deals with employment and trade union matters;
- Admiralty law deals with cases involving foreign as well as British ships;
- Ecclesiastical law deals with the regulation of church affairs and other associated matters.