

The Law Commission
Consultation Paper No 195

CRIMINAL LIABILITY IN REGULATORY CONTEXTS

A Consultation Paper

Criminal Liability In Regulatory Contexts Criminal Liability In Regulatory Contexts

Eva Micheler



Criminal Liability In Regulatory Contexts Criminal Liability In Regulatory Contexts:

Criminal liability in regulatory contexts Great Britain: Law Commission,2010-08-25 In this consultation paper the Law Commission sets out the case for reducing the scope for criminal law to be used in regulated fields such as farming food safety banking and retail sales Criminal sanctions should only be used to tackle serious wrongdoing and it is out of proportion for regulators to rely wholly on the criminal law to punish and deter activities that are merely risky unless the risk involved is a serious one There has been a steep increase in the number of criminal offences created since the late 1980s to penalise risk taking The areas regulated cover a wide range of risk posing activities and involve millions of people and thousands of businesses By turning to civil penalties for minor breaches regulators could reduce costs to themselves and the criminal justice system by 11 million a year In some cases criminal prosecution can cost almost twice what the courts obtain in fines The paper proposes that i regulatory authorities should make more use of cost effective efficient and fairer civil measures to govern standards of behaviour ii a set of common principles should be established to help agencies consider when and how to use the criminal law to tackle serious wrongdoing and iii existing low level criminal offences should be repealed where civil penalties could be as effective Where criminal offences are created in regulatory contexts they should require proof of fault elements such as intention knowledge or a failure to take steps to avoid harm being done or serious risks posed The Realm of Criminal Law R A Duff,2018-06-27 We are said to face a crisis of over criminalization our criminal law has become chaotic unprincipled and over expansive This book proposes a normative theory of criminal law and of criminalization that shows how criminal law could be ordered principled and restrained The theory is based on an account of criminal law as a distinctive legal practice that functions to declare and define a set of public wrongs and to call to formal public account those who commit such wrongs an account of the role that such practice can play in a democratic republic of free and equal citizens and an account of the central features of such a political community and of the way in which it constitutes its public realm its civil order Criminal law plays an important but limited role in such a political community in protecting but also partly constituting its civil order On the basis of this account we can see how such a political community will decide what kinds of conduct should be criminalized not by applying one or more of the substantive master principles that theorists have offered but by considering which kinds of conduct fall within its public realm as distinct from the private realms that are not the polity's business and which kinds of wrong within that realm require this distinctive kind of response rather than one of the other kinds of available response The outcome of such a deliberative process will probably be a more limited and a more rational and principled criminal law The Routledge Handbook of Criminal Justice Ethics Jonathan Jacobs,Jonathan Jackson,2016-07-01 The enormous financial cost of criminal justice has motivated increased scrutiny and recognition of the need for constructive change but what of the ethical costs of current practices and policies Moreover if we seriously value the principles of liberal democracy then there is no question that the ethics of criminal justice are everybody's

business concerns for the entire society The Routledge Handbook of Criminal Justice Ethics brings together international scholars to explore the most significant ethical issues throughout their many areas of expertise anchoring their discussions in the empirical realities of the issues faced rather than applying moral theory at a distance Contributions from philosophers legal scholars criminologists and psychologists bring a fresh and interdisciplinary approach to the field The Handbook is divided into three parts Part I addresses the core issues concerning criminal sanction the moral and political aspects of the justification of punishment and the relationship between law and morality Part II examines criminalization and criminal liability and the assumptions and attitudes shaping those aspects of contemporary criminal justice Part III evaluates current policies and practices of criminal procedure exploring the roles of police prosecutors judges and juries and suggesting directions for revising how criminal justice is achieved Throughout scholars seek pathways for change and suggest new solutions to address the central concerns of criminal justice ethics This book is an ideal resource for upper undergraduate and postgraduate students taking courses in criminal justice ethics criminology and criminal justice theory and also for students of philosophy interested in punishment law and society and law and ethics *Company Law* Eva

Micheler, 2021-10-21 This book advances a real entity theory of company law in which the company is a legal entity which acts autonomously in law and company law establishes procedures facilitating autonomous organisational decision making The theory builds on the insight that organisations or firms are a social phenomenon outside of the law and that these are autonomous actors in their own right They are more than the sum of the contributions of their participants and they act independently of the views and interests of their participants This occurs because human beings change their behaviour when they act as members of a group or an organisation in a group we tend to develop and conform to a shared standard and when we act in organisations habits routines processes and procedures form and a culture emerges These take on a life of their own affecting the behaviour of the participants Participants can affect organisational behaviour but this takes time and effort Company law finds this phenomenon and supplies it with a structure supporting autonomous action by organisations The real entity theory advanced in this book explains company law as it stands at a positive level Legal personality overcomes the problems that organisations are social rather than brute facts and that there is no unique physical manifestation permanently associated with an organisation The corporate constitution is not a contract it is best characterised as an instrument adopted on a statutory basis through private action Shareholders cannot limit the capacity of companies or the authority of the board to bind the company in contract and companies are liable in tort and crime The statute creates roles for shareholders directors a company secretary and auditors and so facilitates a process leading to organisational action The law also integrates the interests of creditors and stakeholders *The Origins of Modern Financial Crime* Sarah Wilson, 2014-06-05 The recent global financial crisis has been characterised as a turning point in the way we respond to financial crime Focusing on this change and crime in the commercial sphere this text considers the legal and economic

dimensions of financial crime and its significance in societal consciousness in twenty first century Britain Considering how strongly criminal enforcement specifically features in identifying the post crisis years as a turning point it argues that nineteenth century encounters with financial crime were transformative for contemporary British societal perceptions of crime and its perpetrators and have lasting resonance for legal responses and societal reactions today The analysis in this text focuses primarily on how Victorian society perceived and responded to crime and its perpetrators with its reactions to financial crime specifically couched within this It is proposed that examining how financial misconduct became recognised as crime during Victorian times makes this an important contribution to nineteenth century history Beyond this the analysis underlines that a historical perspective is essential for comprehending current issues raised by the fight against financial crime represented and analysed in law and criminology as matters of enormous intellectual and practical significance even helping to illuminate the benefits and potential pitfalls which can be encountered in current moves for extending the reach of criminal liability for financial misconduct Sarah Wilson s text on this highly topical issue will be essential reading for criminologists legal scholars and historians alike It will also be of great interest to the general reader The Origins of Modern Financial Crime was short listed for the Wadsworth Prize 2015 , Simester and Sullivan's Criminal Law J J Child,A P Simester,J R Spencer,F Stark,G J Virgo,2022-09-15 undoubtedly a first rate companion for any undergraduate or post graduate law course John Taggart Criminal Law Review This outstanding account of modern English criminal law combines detailed exposition and analysis of the law with a careful exploration of its theoretical underpinnings Primarily it is written for undergraduate students of criminal law covering all subjects taught at undergraduate level The book s philosophical approach ensures students have a deeper understanding of the law that goes beyond a purely doctrinal knowledge As a result over its numerous editions it has become required reading for many criminal law courses The 8th edition covers all statutory law including the Assaults on Emergency Workers Act 2018 and Domestic Abuse Act s 71 Case law discussions now cover Grant complicity Barton dishonesty Broughton Field Kuddus and Rebelo homicide and AG s Ref No 1 of 2020 sexual offences

General Reports of the XVIIIth Congress of the International Academy of Comparative Law/Rapports G n raux du XVIII me Congr s de l'Acad mie Internationale de Droit Compar  Karen B. Brown,David V.

Snyder,2011-12-29 This title presents twenty nine topics prepared by leading scholars in more than 20 countries providing a comparative analysis of cutting edge legal topics of the 21st century Considering topics of vital moment to contemporary legal scholars the title includes pieces on Surrogate Motherhood The Balance of Copyright in Comparative Perspective International Law in Domestic Systems Constitutional Courts as Positive Legislators Same sex Marriage Climate Change and the Law The Regulation of Private Equity Hedge Funds and State Funds and Regulation of Corporate Tax Evasion Each chapter surveys legal developments in the U S and Canada Europe Asia Latin and South America Africa and the Middle East in a format that permits the reader easy access to similarities and differences in the approaches of the selected national

regimes This comprehensive volume tells the story of parallel trends in the evolution of legal doctrine despite jurisdictional cultural and political barriers While each of the covered countries stands alone as a sovereign in a technologically advanced world their disparate systems nonetheless have converged to adopt comparable strategies in dealing with complex legal issues The volume is a critical addition to the library of any scholar hoping to keep abreast of the major trends in contemporary law

Core Concepts in Criminal Law and Criminal Justice Kai Ambos, Antony Duff, Alexander Heinze, Julian Roberts, Thomas Weigend, 2022-02-17 Volume two of a comparative study of the concepts that underpin different domestic systems of criminal law and justice

Corporate Criminal Liability Mark Pieth, Radha Ivory, 2011-04-20 With industrialization and globalization corporations acquired the capacity to influence social life for good or for ill Yet corporations are not traditional objects of criminal law Justified by notions of personal moral guilt criminal norms have been judged inapplicable to fictional persons who think and act through human beings The expansion of new corporate criminal liability CCL laws since the mid 1990s challenges this assumption Our volume surveys current practice on CCL in 15 civil and common law jurisdictions exploring the legal conditions for liability the principles and options for sanctioning and the procedures for investigating charging and trying corporate offenders It considers whether municipal CCL laws are converging around the notion of corporate culture and in any case the implications of CCL for those charged with keeping corporations and other legal entities out of trouble

Consumer redress for misleading and aggressive practices Great Britain: Law Commission, 2011-04-12 The Consumer Protection from Unfair Trading Regulations 2008 the Regulations prohibit misleading and aggressive trade practices The Regulations implemented a European directive replacing 23 previous UK consumer protection measures including most of the Trade Descriptions Act 1968 They are enforced mainly by the Office of Fair Trading and by trading standards services Under current law consumers do not have a right to compensation if a trader breaches the Regulations Instead consumers must rely on a variety of private causes of action some statutory some based on case law These are complex confusing and patchy This Consultation Paper aims to 1 simplify redress for misleading commercial practices 2 simplify redress for aggressive commercial practices and 3 fill gaps in protection where a consumer is unable to gain redress for serious breaches of the Regulations

The Governance of Criminal Justice in the European Union Ricardo Pereira, Annegret Engel, Samuli Miettinen, 2020-12-25 This timely book provides an astute assessment of the institutional and constitutional boundaries interactions and tensions between the different levels of governance in EU criminal justice Probing the conceptual and theoretical underpinnings of the EU's approach to transnational crime it proposes improved mechanisms for public participation in the governance of EU criminal law designed to ensure better transparency accountability and democratic controls

The Oxford Handbook of Comparative Environmental Law Emma Lees, Jorge E. Viñuales, 2019-04-25 This Handbook is the first comprehensive account of comparative environmental law It examines in detail the methodological foundations of the discipline as well as the substance

of environmental law across countries from four vantage points country studies from all continents responses to common problems including air pollution water management nature conservation genetically modified organisms climate change and energy chemicals waste foundational components of environmental law systems including principles property rights administrative and judicial organisation command and control regulation market mechanisms informational techniques and liability mechanisms and common interactions of environmental protection with the broader public private and criminal law contexts The volume brings together the foremost authorities in this field from around the world to provide a concise self contained and technically rigorous account of environmental law as a single overall system Card, Cross & Jones Criminal

Law Richard Card,Jill Molloy,2016 Drawing on 65 years of history and expertise Card Cross Jones is a trusted source of rigorous and dependable legal description and commentary **Responsibility and Accountability in Maritime Law**

Simon Daniels,2022-04-04 The criminalisation of seafarers has been observed as a growing phenomenon for more than forty years presenting a picture of increasing liability upon the Master even though their responsibilities remain essentially unchanged in generations of maritime law Because of the demand by society to find someone to blame for environmental and human loss there is a constant flow of cases which serve to confirm the phenomenon but offer no solutions to defend the innocent The structure of the maritime environment in which they work has changed dramatically as evidenced by the complex evolution of fleet ownership and management leaving the Master with diminished management influence This book has been written in a format which meets the needs of lawyers academics and maritime professionals with the aim to analyse the character of criminalisation to determine the features which characterise the phenomenon in Port and Flag State contexts it interrogates the aim to define the nature of criminalisation and identifies the constituent problems in such criminal accountability Each chapter relies heavily on case studies to illustrate how the laws which reflect national policy underpinning those priorities are applied in practice This structure enables an understanding of the problems in the criminal process with a view to offering options for solutions The book is directly relevant to a broad range of parties which includes lawyers academics P I clubs seafarers shipowners managers and agents and national and international seafaring unions

Criminal and Quasi-criminal Enforcement Mechanisms in Europe Vanessa Franssen,Christopher Harding,2022-02-24 This book looks at the interplay between criminal and other branches of public law pursuing similar objectives referred to as quasi criminal law The need for clarifying the concepts and the interlink between criminal and quasi criminal enforcement is a topic attracting a lot of discussion and debate both in academia and practice across Europe and beyond This volume adds to this debate by bringing to light the substantive and procedural problems stemming from the current parallel or dual use of the different enforcement systems The collection draws on expertise from academia practice and policy its high quality analysis will appeal to scholars practitioners and policymakers alike *Modern Bribery Law* Jeremy Horder,Peter Alldridge,2013-04-25 This critical analysis of the Bribery Act 2010 provides international and EU comparisons and evaluates

its enforcement and asset recovery prospects

Corporate Manslaughter in the Maritime and Aviation Industries

Simon Daniels, 2016-08-12 This book provides expert analysis of the application of the evolving law in Corporate Manslaughter as it relates to the Maritime and Aviation industries It will prove to be a useful tool for practitioners and students in this specialised area as well as those working in the maritime and aviation industries such as those who will be accountable under the Corporate Manslaughter Act 2007 the Masters and Pilots who manage the risks and the insurers who underwrite the cost of the risks The author will discuss areas such as The liability towards passengers and employees The Prosecution of offenders Comparative analysis of corporate manslaughter in the wider global industry

The Law and Economics of Enforcing European Consumer Law Dr Franziska Weber, 2014-05-28 This book offers a comparative law and economics analysis of the changing landscape of EU consumer law enforcement policy now that EU member states are moving away from purely public or private law enforcement towards a more mixed approach The book reflects on the need for efficient enforcement designs and examines the economic factors according to which the efficiency of different enforcement mechanisms can be assessed A variety of hypothetical case scenarios are considered to illustrate various consumer law problems and the findings are used to assess real life situations in countries with different enforcement traditions

Mayson, French & Ryan on Company Law Derek French, 2019 Updated annually Mayson French Ryan on Company Law is the ideal companion for students looking for an up to date thorough and accessible account of company law The content has been recently streamlined with modern company law courses in mind and includes plenty of student friendly features and a fresh modern text design

Reviewing **Criminal Liability In Regulatory Contexts Criminal Liability In Regulatory Contexts**: Unlocking the Spellbinding Force of Linguistics

In a fast-paced world fueled by information and interconnectivity, the spellbinding force of linguistics has acquired newfound prominence. Its capacity to evoke emotions, stimulate contemplation, and stimulate metamorphosis is actually astonishing. Within the pages of "**Criminal Liability In Regulatory Contexts Criminal Liability In Regulatory Contexts**," an enthralling opus penned by a very acclaimed wordsmith, readers embark on an immersive expedition to unravel the intricate significance of language and its indelible imprint on our lives. Throughout this assessment, we shall delve in to the book is central motifs, appraise its distinctive narrative style, and gauge its overarching influence on the minds of its readers.

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