

Legitimate Expectations and Proportionality in Administrative Law



Robert Thomas

Legitimate Expectations In Administrative Law

Paul Daly



Legitimate Expectations In Administrative Law:

Legitimate Expectations in Administrative Law Søren J. Schønberg, 2000 This original and stimulating book is the first systematic study of the principle of legitimate expectations in administrative law to appear in the English language The notion of reasonable or legitimate expectations has played a central role in the development of administrative law over the last thirty years and it remains one of the most contentious and most frequently invoked grounds of judicial review In this book Dr Schonberg provides a detailed comparative and critical analysis of that notion He begins by clarifying why administrative law should protect expectations at all by linking expectations to fairness trust in administration and the Rule of Law with its requirements of legal certainty and formal equality In the light of this framework he examines in detail the principles and rules which contribute to the protection of expectations The scope of this analysis is broad looking both at procedural and substantive principles of administrative law as well as principles of tort liability and statutory compensation In all of these areas English law is carefully compared with French and EC law and is shown how the three legal systems often reach similar outcomes by the application of different legal principles and rules The current state of English law is examined critically in the light of the comparative study of French and EC law and a number of original suggestions for legal reform are presented They include the adoption of a general principle of irrevocability of intra vires administrative decisions a distinct principle of substantive legitimate expectations subject to a significant imbalance threshold for judicial intervention and a statutory right to compensation for loss caused by sufficiently serious violations of public law

Legitimate Expectations and Proportionality in Administrative Law Robert Thomas, 2000-09 Presents a comparison of the development in European and English law of two legal principles legitimate expectations and proportionality against the different traditions of administrative law Looks at case law of the English courts and the European Court of Justice and explains why English courts have been troubled by legitimate expectations and proportionality and how such difficulties can be resolved Suggests that problems associated with these principles are connected to different cultural approaches to the appropriate role of law in the modern state Of interest to administrative lawyers The author teaches law at the University of Manchester Distributed by ISBS c Book News Inc

Legitimate Expectations in the Common Law World Matthew Groves, Greg Weeks, 2017-01-12 The recognition and enforcement of legitimate expectations by courts has been a striking feature of English law since *R v North and East Devon Health Authority ex parte Coughlan* 2001 3 QB 213 Although the substantive form of legitimate expectation adopted in *Coughlan* was quickly accepted by English courts and received a generally favourable response from public law scholars the doctrine of that case has largely been rejected in other common law jurisdictions The central principles of *Coughlan* have been rejected by courts in common law jurisdictions outside the UK for a range of reasons such as incompatibility with local constitutional doctrine or because they mark an undesirable drift towards merits review The sceptical and critical reception to *Coughlan* outside England is a striking contrast to the reception

the case received within the UK This book provides a detailed scholarly analysis of these issues and considers the doctrine of legitimate expectations both in England and elsewhere in the common law world *A Theory of Legitimate Expectations for Public Administration* Alexander Brown, 2017 Should governmental administrative agencies be liable to pay compensation to agents who suffer losses as a result of a policy U turn Drawing on insights from political and legal theory Alexander Brown argues that agencies should be held liable for losses they directly cause by creating and then frustrating legitimate expectations Evolution and Application of the Doctrine of Legitimate Expectation in Administrative Law Apoorwa Nanayakkara, 2023 This article delves into the evolution and application of the doctrine of legitimate expectation in administrative law exploring its fundamental principles and implications The concept of legitimate expectation has emerged as a vital bridge between the Rule of Estoppel and the Principle of Administrative Fairness serving to safeguard individuals against arbitrary exercise of power by state agencies Further examines the theoretical underpinnings of legitimate expectation its procedural and substantive aspects and its significance in ensuring good governance Through an analysis of key cases from different jurisdictions including Sri Lanka the article evaluates the development of the doctrine and its interplay with principles of natural justice and equality The article also discusses the challenges and ambiguities faced in distinguishing between procedural and substantive legitimate expectations Overall it highlights the importance of maintaining a delicate balance between protecting legitimate expectations and prioritizing the public interest while emphasizing the evolving nature of this doctrine within the realm of administrative law The Protection of Legitimate Expectations in Administrative Law Anneken Kari Sperr, Diana Hohenlohe-Oehringen, 2021-03-11 The protection of legitimate expectations appears to be a key concept of administrative law in Europe it defines the legal position of the individual vis vis the public authorities and is thus a gateway for constitutional considerations in administrative law This book presents the results of a comparative research project dealing with the question if to what extent and in which ways the legitimate expectations of private parties are considered in procedures leading to a primary administrative decision and where available in subsequent review procedures before administrative judicial or quasi judicial bodies Furthermore the project examines if and to what extent European and national legal orders as well as international legal regimes guarantee compensation in cases where provisions concerning the protection of legitimate expectations have been disregarded The contributions to the book including surveys of the theoretical and philosophical background country reports and comparative analyses are written by scholars from 16 European countries giving an insight into the various legal systems their understanding of and their methods of interpreting and applying administrative law The Emerging Principle of Legitimate Expectations in Administrative Law J. Beatson, 1988* **Understanding Administrative Law in the Common Law World** Paul Daly, 2021 This book offers a new framework for understanding contemporary administrative law through a comparative analysis of case law from Australia Canada England Ireland and New Zealand The author argues that the field is structured by four values

individual self realisation good administration electoral legitimacy and decisional autonomy Beatson, Matthews and Elliott's Administrative Law Text and Materials Mark Elliott, Jack Beatson, Martin Matthews, 2011-01-27 Beatson Matthews Elliott's Administrative Law combines extracts from key cases articles and other sources with detailed commentary Aimed at undergraduates studying administrative law it provides comprehensive coverage of the subject *Administrative Law* Mark Elliott, Jason N. E. Varuhas, 2017 Administrative Law Text and Materials combines carefully selected extracts from key cases articles and other sources with detailed commentary Aimed at undergraduates studying administrative law it provides comprehensive coverage of the subject and brings together in one volume the best features of a textbook and a casebook Rather than simply presenting administrative law as a straightforward body of legal rules this engaging critical text considers the subject as an expression of underlying constitutional and other policy concerns which fundamentally shape the relationship between the citizen and the state The result is a fascinating account of a subject of crucial importance Online Resource Centre The book is supported by online an Online Resource Centre offering the following useful resources Updates which cover all the legal developments since publication Oxford NewsNow RSS feeds provide constantly refreshed links to the latest relevant new stories Interactive timeline of key dates in British political history Annotated web links **The Europeanisation of the Law on Legitimate Expectations** Esther Drabkin-Reiter, 2016 This thesis considers the Europeanisation of English administrative law in the specific context of the principle of protection of legitimate expectations It assesses whether how and to what extent the way in which the way in which legitimate expectations are protected in EU law has influenced the protection of legitimate expectations in English law To make this assessment a thorough analysis is conducted of case law in both jurisdictions The thesis is structured into five main Chapters Chapter A provides an introduction and looks at some general issues surrounding the concept of legitimate expectation including which expectations are protectable and what is meant by legitimacy Chapter B traces the development of the protection of legitimate expectations in English and EU law and considers certain particular features in more detail for each jurisdiction with the aim of establishing some parameters against which more recent case law can be tested and compared In Chapter C an in depth analysis of recent case law of the English courts both falling within and outside the scope of EU law is undertaken and comparisons are drawn between these cases and with the traditional position of EU law on the protection of legitimate expectations Chapter D contains a similar analysis in respect of recent cases of the Court of Justice of the European Union Finally Chapter E draws these analyses together and concludes that while there is limited convergence in the way English and EU courts approach the protection of legitimate expectations both jurisdictions remain wary of external influence The Oxford Handbook of Comparative Administrative Law Peter Cane, Herwig C H Hofmann, Eric C Ip, Peter L Lindseth, 2020-12-17 The comparative study of administrative law has a long history dating back more than 200 years It has enjoyed a renaissance in the past 15 years or so and now sits alongside fields such as comparative constitutional law and

global administrative law as a well established area of scholarly research This book is the first to provide a broad and systematic view of the subject both in terms of the topics covered and the legal traditions surveyed In its various parts it surveys the historical beginnings of comparative administrative law scholarship discusses important methodological issues examines the relationship between administrative law and regime type analyses basic concepts such as administrative power and accountability and deals with the creation functions and control of administrative power and values of administration The final part looks to the future of this young sub discipline In this volume distinguished experts and leaders in the field discuss a wide range of issues in administrative law from a comparative perspective Administrative law is concerned with the conferral nature exercise and legal control of administrative or executive governmental power It has close links with other areas of public law notably constitutional law and international law It is of great interest and importance not only to lawyers but also to students of politics government and public policy Studying public law comparatively helps to identify both similarities and differences between the way government power and its control is managed in different countries and legal traditions

Law and Practice of Investment Treaties Andrew Paul Newcombe, Lluís Paradell, 2009-01-01 The book focuses on the substantive protections accorded to investors and investments and on the variations among jurisdictions Among the many specific issues and topics that arise in the course of the discussion are the following problems of transparency and conflict of interest the recent growth in IIAs between and among developing nations the effect of new model bilateral investment treaties BITs the ability of non disputing parties to participate in investor state arbitration theories of the interaction of foreign direct investment FDI and BITs investor state arbitration as an evasion of public regulatory authority the role of investment funds in international investment fork in the road provisions and institutional versus ad hoc arbitration International business and other investors will greatly appreciate the in depth information and insightful guidance in this solidly useful book It will also be welcomed by jurists and students as a significant milestone in the development of principles in a quickly growing field of practice that is still plagued with inconsistencies

From Heresy to Orthodoxy Mark Elliott, 2016 English administrative law is unusual in the common law world for its embrace of the doctrine of substantive legitimate expectations However while that doctrine is now an accepted if not yet fully settled part of the administrative law landscape in England it is only 20 years since it was judicially castigated as heretical This paper charts the development of the substantive legitimate expectation doctrine over recent decades and critically examines the reasons for its transformation from heresy to orthodoxy It does so by situating the emergence of the substantive legitimate expectation principle within the context of wider changes that have taken place in English public law in recent decades arguing that the patina of doctrinal orthodoxy that substantive legitimate expectations now enjoy is warranted That position is advanced by reference to two lines of argument First it is argued that the doctrine of substantive legitimate expectation can be understood in terms more subtle and less uncompromising than those implied by the early cases which attracted particularly critical attention both

academically and judicially Second as well as addressing the substantive legitimate expectation doctrine's compatibility with orthodoxy orthodoxy's compatibility with the doctrine is examined and two distinct but complementary propositions advanced It is argued on the one hand that understandings of what orthodoxy is have evolved somewhat in the last 20 or so years On the other hand it is argued that understandings of what orthodoxy requires in doctrinal terms have also changed These shifting perceptions of the nature and implications of orthodoxy have served to carve out a space for the substantive legitimate expectation doctrine today which is more generous than that which previously existed The story of the evolution of the doctrine of substantive legitimate expectation thus forms part of a larger tableau upon which is recorded the recent evolution of English administrative law itself *Administrative Law* Paul P. Craig, 2008 The TRIPS Agreement Drafting History and Analysis 3rd Ed Useful for IP practitioners and academics this work which is split into three parts discusses and analyses the TRIPS Agreement Part 1 describes the development of the TRIPS Agreement Part 2 is a commentary on the Articles of the Agreement and Part 3 consists of reports on relevant dispute settlement cases *Constitutional & Administrative Law* Hilaire Barnett, 2009 This seventh edition of Constitutional and Administrative Law is published against the background of continuing constitutional reform and change It has been fully revised in order to take into account these issues and remain an up to date and reliable resource for students of public law **Administrative Law and Government Action** Hazel Genn, Geneva Richardson, 1994 Administrative Law and Government Action offers a new collection of essays on important and often contentious aspects of administrative law the propriety of judicial intervention in government for example and the implications of our membership of the European Union The individual contributions are informed by a wide variety of theoretical perspectives and are drawn together by certain common themes the constitutional role of judicial review its efficacy as a mechanism for the regulation of government decision making and the scope and impact of alternative mechanisms such as tribunals administrative reviews and ombudsmen All chapters address issues of current significance and while some develop a broad conceptual analysis others rely on a more internal critique Each contributor sets out both to provide an accessible synthesis of existing literature and to develop his or her own critical approach Considerable emphasis is also placed on the results of relevant empirical research where available The volume falls into two parts Part I is concerned primarily with judicial review and its appropriate constitutional role while Part II discusses alternative mechanisms for the regulation of government action EU Administrative Law Paul P. Craig, 2006 EU Administrative Law considers the ways in which the EU administers policy the objective being to explicate analyse and evaluate the modes of policy delivery to assess the role of law therein and to draw conclusions about their relative efficacy The approach throughout is contextual and interdisciplinary The focus in Part II shifts to Law and Administration with analysis of the principles of judicial review as they have been developed by the Community courts The chapters consider in depth the principles of judicial review that are applied to control and structure EU administration and that of the Member States when acting in the sphere of EU law The discussion

takes full account of the legislative and political initiatives that are relevant to particular issues as well as the contribution made by the Community courts **Administrative Law Under the 1996 Constitution** Yvonne Burns, M. Beukes, 2006 This book is divided into 5 parts Part 1 deals with founding principles of administrative part 2 with powers duties and functions of the administrator part 3 deals with control of administration action part 4 procedural issues surrounding the judicial review and part 5 remedies available to the aggrieved person **Administrative Law** Timothy Andrew Orville Endicott, 2009 Administrative Law explains the constitutional principles that underlie the varieties of administrative law and gives unity to the diverse topics that are required to understand this complex branch of public law

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