

Contents

Foreword	vii
Preface	xi
Series Preface	xv
Table of Statutes	xxi
Table of Statutory Instruments	xxxix
Table of European Legislation	xxxv
Table of International Legislation	xxxvii
Table of Cases	xxxix

PART I OVERVIEW

Chapter 1 Introduction	3
I The Scope of the Law of Contempt	4
II Sources of the Contempt Power	6
III Contempt and Freedom of Discussion – the New Constitutional Landscape	7
IV The Significance of the Law of Contempt	9
V The Structure of the Book	10
Chapter 2 The constitutional context: fair trials, the administration of justice and freedom of expression	11
I Introduction	11
II The European Convention on Human Rights 1950 and the Human Rights Act 1998	14
III Labour in Power – the Human Rights Act 1998	15
IV Fair Trial and Freedom of Expression under the European Convention on Human Rights – Some Structural Issues	16
V Fair Trials and the Unimpeded Administration of Justice in ECHR Jurisprudence	17
VI Article 10 Freedom of Expression Jurisprudence	19
VII The Regulation of Court-Related Speech Under The European Convention on Human Rights	21
VIII Conclusion	25
Chapter 3 The impact of globalisation and new technology	27
I Introduction	27

II Criminal contempt	28
III Civil Contempt	37
IV Other areas of contempt	41

PART II STRICT LIABILITY

Chapter 4 Publications interfering with the due course of justice in particular legal proceedings – the general position under the Contempt of Court Act 1981	45
I Introduction	45
II Applying the Strict Liability Rule	52
III The Continuing Relevance of the Common Law	62
Chapter 5 Publications interfering with the course of justice in particular criminal proceedings	69
I Introduction	69
II Publications Before And During The Trial	71
III Publications After Verdict But Before Sentencing	113
IV Publications After The Trial, Pending An Appeal	114
V Publications After The Final Conclusion Of Proceedings	120
VI Third Party Costs Order	121
VII Defences	121
Chapter 6 Civil contempt	123
I Introduction	123
II The Ways In Which Civil Contempt May Be Committed	129
III Powers Of The Courts To Enforce Judgments Or Orders Other Than For The Payment Of A Sum Of Money	137
IV Powers Of The Courts To Enforce The Payment Of A Sum Of Money	235
V Is There A Rule That The Contemnor May Not Be Heard?	240
VI Appeals	243
VII The Distinction Between Civil And Criminal Contempt	243

PART III PERSONAL INJURY DAMAGES

Chapter 7 Reporting criminal court proceedings	257
I Introduction	257
II Reporting Proceedings Heard In Open Court	260
Chapter 8 Reporting civil court proceedings	305
I Introduction	305
II When A Civil Court May Sit In Private	305
III Restrictions On Reporting Private Hearings	308
IV Restrictions On Reporting Public Hearings	315
V Access To Civil Court Documents	319
Chapter 9 Reporting family court proceedings	325
I Introduction	325

PART IV INTERFERENCE WITH THE ADMINISTRATION OF JUSTICE	
Chapter 10 Interference with witnesses	361
I Introduction	361
II Interference With Witnesses Before Or During The Trial: The Common Law	363
III Interference With Witnesses After The Trial: The Common Law	370
IV Intimidation Of Witnesses: Legislative Responses	377
V Payment To Witnesses: The Role Of The Media Regulators	386
Chapter 11 Publications interfering with the due course of justice as a continuing process	401
I Introduction	401
II Scandalising The Court	401
Chapter 12 Contempt in the face of the court	449
I Introduction	449
II Ways In Which Contempt In The Face Of The Court May Be Committed	460
III Contempts Committed By Particular Persons	481
IV Mens Rea	515
V Tribunals	518
VI Procedure	520

PART V CONTEMPT PROCEEDINGS

Chapter 13 Bringing proceedings	527
I General considerations	527
II The Current Prosecution Process In England And Wales	536
III Punishment of the offender	577
IV Appeals	584
V Pardons	594
Chapter 14 Responsibility for contempt by publication	595
I Introduction	595
II Types of publication	596
III Defences available to publishers	616

PART VI MISCELLANEOUS

Chapter 15 The protection of journalists' sources	623
I The Importance Of The Protection And The Context	623
II The Common Law Position	624
III Section 10 Of The Contempt Of Court Act 1981	626
IV The Strasbourg Case Law On Journalists' Sources And Its Impact On UK Case-Law	635
V A comparative view and evaluation	653
VI Postscript: the UK loses the Interbrew case at Strasbourg	655
Chapter 16 The application of criminal contempt to statutory inquiries	659
I Introduction	659

Contents

II Inquiries Act 2005	662
III How The Law Of Contempt Affects Tribunals	666
IV The Application Of The Law Of Constructive Contempt To Tribunals Of Inquiry	670
V Procedure	678
VI Should criminal contempt apply to statutory inquiries?	683
Chapter 17 Looking ahead: future developments in the law of contempt	685
I Introduction	685
II Whither The Human Rights Act?	687
III Anonymity Orders In Counter-Terrorism Proceedings – The Supreme Court Speaks Out In <i>Guardian News And Media Ltd</i> [2010]	689
IV Anonymity For Rape Defendants	692
Appendix 1 Contempt of Court Act 1981	695
Appendix 2 Human Rights Act 1998	715
Index	747

Table of Statutes

Paragraph references printed in bold type indicate where the Statute is set out in part or in full.

A	
Access to Justice Act 1999	
s 12	12.3
(1)	13.31
13–18a	12.3
64	13.66
Administration of Justice Act 1925	12.39
Administration of Justice Act 1928	12.39
Administration of Justice Act 1932	12.39
Administration of Justice Act 1956	12.39
s 46	12.39
Administration of Justice Act 1960	7.24, 13.53
s 1(2)	6.29, 13.70
(4)	13.71
2(1)	13.70
(3)	13.70
12	3.12, 6.72, 8.3, 8.8, 9.19, 9.22, 14.19
(1)	9.17
(a)	6.29, 8.4, 8.6, 8.7, 8.8, 9.16, 9.26
(i)–(iii)	9.18
(b)	8.4, 8.6, 8.7, 8.8, 13.23
(c)–(d)	8.4, 8.6, 8.7, 8.8
(e)	8.4, 8.6, 8.7, 8.8
(2)	6.3, 8.6, 8.7, 9.18
(3)	8.4, 8.7
(4)	4.16, 8.4, 8.5
13	6.73, 6.74, 12.2, 12.43, 13.48, 13.50, 13.74
(1)	13.64
(2)	13.64, 13.65, 13.66
(c)	13.67
(3)	12.1, 13.71
(4)	13.70
(5)	6.67, 6.71, 13.64
Administration of Justice Act 1964	12.39
Administration of Justice Act 1965	12.39
Administration of Justice Act 1968	12.39
Administration of Justice Act 1969	12.39
Administration of Justice Act 1970	6.66
Administration of Justice (Miscellaneous Provisions) Act 1933	
s 2(2)(b)	7.19
Adoption Act 1976	
s 66	12.26
Adoption and Children Act 2002	9.8, 9.9, 9.18, 9.19
s 141(4)(c)	12.26
Air Force Act 1955	12.2
s 57(1)–(2a)	13.54
(2a)	13.54
101(g)	13.54
205–208	13.54
Arbitration Act 1996	
s 43, 44	12.24
Armed Forces Act 2006	
s 50	12.2
140	12.2
272	12.2
277	12.2
309	12.2
310–312	12.2
Army Act 1955	
s 57(1), (2)	13.54
(12a)	13.54
71aa	13.54
101(g)	12.2, 13.54
205–208	13.54
Attachment of Earnings Act 1971	
s 3(4)	6.67
23(9)	13.66
B	
Backing of Warrants (Republic of Ireland) Act 1965	7.24
Bail Act 1976	
s 6	12.1, 13.66
(5)	12.39
Bill of Rights 1689	
art 9	5.15
Broadcasting Act 1990	7.17
s 201	9.23
Sch 20	
para 31(1)	4.8
Building Societies Act 1986	
s 57(6)	6.24