

# STATE LIABILITY IN TORT

*A Comparative Law Study*

DUNCAN FAIRGRIEVE

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## *Preface*

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Duncan Fairgrieve

*8 August 2002*

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## Abbreviations

In addition to the standard abbreviations used for the citation of reported cases and journals, the following abbreviations are also used in the text.

|                             |                                                                                         |
|-----------------------------|-----------------------------------------------------------------------------------------|
| Admin. LR                   | Administrative Law Reports                                                              |
| AJDA                        | Actualité Juridique, Droit Administratif                                                |
| AJICL                       | African Journal of International and Comparative Law                                    |
| Allison                     | J.W.F. Allison, <i>A Continental Distinction in the Common Law</i> (Oxford, 1996)       |
| ALR                         | Australian Law Reports                                                                  |
| Arrowsmith                  | S. Arrowsmith, <i>Civil Liability and Public Authorities</i> (Winteringham, 1992)       |
| BGB                         | Bürgerliches Gesetzbuch                                                                 |
| BLR                         | Building Law Reports                                                                    |
| BMLR                        | Butterworths Medico-Legal Reports                                                       |
| B & S                       | Best & Smith's Queen's Bench Reports                                                    |
| Brown and Bell              | L.N. Brown and J. Bell, <i>French Administrative Law</i> (5th edn, Oxford, 1998)        |
| CA                          | Court of Appeal                                                                         |
| CAA                         | Cour Administrative d'Appel                                                             |
| Can. Bar Rev.               | Canadian Bar Review                                                                     |
| Cass civ 1st                | First civil Chamber of the Cour de Cassation                                            |
| Cass civ 2nd                | Second civil Chamber of the Cour de Cassation                                           |
| CC                          | Conseil Constitutionnel                                                                 |
| CE                          | Conseil d'Etat                                                                          |
| CFLQ                        | Child and Family Law Quarterly                                                          |
| CG                          | Commissaire du Gouvernement                                                             |
| Chapus                      | R. Chapus, <i>Droit Administratif Général</i> , (15th edn, Paris, 2001)                 |
| <i>Clerk &amp; Lindsell</i> | M. Brazier et al. (eds.), <i>Clerk &amp; Lindsell on Torts</i> (17th edn, London, 1995) |
| Craig                       | P.P. Craig, <i>Administrative Law</i> (4th edn, London, 1999)                           |
| CLR                         | Commonwealth Law Reports                                                                |
| Const. LJ                   | Construction Law Journal                                                                |
| D                           | Recueil Dalloz                                                                          |

|                         |                                                                                                                                                                                          |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Deguergue               | M. Deguergue, <i>Jurisprudence et Doctrine dans l'Elaboration du Droit de la Responsabilité Administrative</i> (Paris, 1994).                                                            |
| E & B                   | Ellis & Blackburn's Queen's Bench Reports                                                                                                                                                |
| ECHR                    | European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights)                                                                    |
| ECtHR                   | European Court of Human Rights                                                                                                                                                           |
| ECJ                     | European Court of Justice                                                                                                                                                                |
| EDCE                    | Etudes et Documents du Conseil d'Etat                                                                                                                                                    |
| EGLR                    | Estates Gazette Law Reports                                                                                                                                                              |
| EHRLR                   | European Human Rights Law Review                                                                                                                                                         |
| ELR                     | Education Law Reports                                                                                                                                                                    |
| EPL                     | European Public Law                                                                                                                                                                      |
| EuLR                    | European Law Reports                                                                                                                                                                     |
| Gaz. Pal.               | Gazette du Palais                                                                                                                                                                        |
| Guettier                | C. Guettier, <i>La Responsabilité Administrative</i> (Paris, 1996)                                                                                                                       |
| Harlow                  | C. Harlow, <i>Compensation and Government Torts</i> (London, 1982)                                                                                                                       |
| HL                      | House of Lords                                                                                                                                                                           |
| HLC                     | Clark's House of Lords Cases                                                                                                                                                             |
| H & N                   | Hurlstone & Norman's Exchequer Reports                                                                                                                                                   |
| HRA                     | Human Rights Act 1998                                                                                                                                                                    |
| Imm. AR                 | Immigration Appeal Reports                                                                                                                                                               |
| JCP                     | Jurisclasseur Périodique (Semaine Juridique)                                                                                                                                             |
| JPL                     | Journal of Planning and Environment Law                                                                                                                                                  |
| KIR                     | Knight's Industrial Reports                                                                                                                                                              |
| LGO                     | Local Government Ombudsman                                                                                                                                                               |
| LGR                     | Local Government Reports                                                                                                                                                                 |
| Lloyd's Rep.            | Lloyd's Law Reports                                                                                                                                                                      |
| Lloyd's Rep. Med.       | Lloyd's Medical Law Reports                                                                                                                                                              |
| LR CP                   | Law Reports, Common Pleas Cases                                                                                                                                                          |
| LR Ex.                  | Law Reports, Exchequer Cases                                                                                                                                                             |
| LR HL                   | Law Reports, English and Irish Appeals                                                                                                                                                   |
| LS                      | Legal Studies                                                                                                                                                                            |
| Markesinis, Auby et al. | B.S. Markesinis, J-B. Auby, D. Coester-Waltjen, and S.F. Deakin, <i>Tortious Liability of Statutory Bodies: A Comparative and Economic Analysis of Five English Cases</i> (Oxford, 1999) |

|                                      |                                                                                                                                     |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Markesinis and Deakin                | B.S. Markesinis and S. Deakin, <i>Tort Law</i> (4th edn, Oxford, 1999)                                                              |
| Med. LR                              | Medical Law Reports                                                                                                                 |
| NI                                   | Northern Ireland Reports                                                                                                            |
| NJCL                                 | National Journal of Constitutional Law                                                                                              |
| OJLS                                 | Oxford Journal of Legal Studies                                                                                                     |
| Paillet                              | M. Paillet, <i>La Responsabilité Administrative</i> (Paris, 1996).                                                                  |
| PCA                                  | Parliamentary Commissioner for Administration                                                                                       |
| PH                                   | Phillips, Chancery Reports                                                                                                          |
| PIQR                                 | Personal Injury Quarterly Reports                                                                                                   |
| PL                                   | Public Law                                                                                                                          |
| PLR                                  | Planning Law Reports                                                                                                                |
| PN                                   | Professional Negligence                                                                                                             |
| RDP                                  | Revue du Droit Public et de la Science Politique                                                                                    |
| Rec.                                 | Recueil des Décisions du Conseil d'Etat                                                                                             |
| Rec CC                               | Recueil des Décisions du Conseil Constitutionnel                                                                                    |
| <i>Régler autrement les conflits</i> | Conseil d'Etat, <i>Régler autrement les conflits: conciliation, transaction, arbitrage en matière administrative</i> (Paris, 1993). |
| Req.                                 | Requête                                                                                                                             |
| RFDA                                 | Revue Française de Droit Administratif                                                                                              |
| RHDI                                 | Revue Hellénique de Droit International                                                                                             |
| RIDC                                 | Revue International de Droit Comparé                                                                                                |
| RSC                                  | Rules of the Supreme Court                                                                                                          |
| RTDC                                 | Revue Trimestrielle de Droit Civil                                                                                                  |
| RTDSS                                | Revue Trimestrielle de Droit Sanitaire et Social                                                                                    |
| RTR                                  | Road Traffic Reports                                                                                                                |
| RVR                                  | Rating and Valuation Reporter                                                                                                       |
| SA                                   | Société Anonyme                                                                                                                     |
| SARL                                 | Société à Responsabilité Limitée                                                                                                    |
| SCI                                  | Société Civile Immobilière                                                                                                          |
| SLT                                  | Scots Law Times                                                                                                                     |
| TA                                   | Tribunal Administratif                                                                                                              |
| TC                                   | Tribunal des Conflits                                                                                                               |
| TR                                   | Term Reports                                                                                                                        |
| Tort L Rev.                          | Tort Law Review                                                                                                                     |
| VR                                   | Victorian Reports (Australia)                                                                                                       |

Wade and Forsyth

H.W.R. Wade and C. Forsyth,  
*Administrative Law* (8th edn, Oxford, 2000)

*Winfield and Jolowicz*

W.V.H. Rogers, *Winfield and Jolowicz on Tort*  
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YEL

Yearbook of European Law

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