

§ Law in Context

MICHAEL ZANDER

# The Law-Making Process

Sixth Edition

CAMBRIDGE

DC9701

# The Law-Making Process

Sixth Edition

Michael Zander QC

*Emeritus Professor of Law*

*London School of Economics and Political Science*



PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE  
The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS

The Edinburgh Building, Cambridge, CB2 2RU, UK

40 West 20th Street, New York, NY 10011-4211, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

Ruiz de Alarcón 13, 28014 Madrid, Spain

Dock House, The Waterfront, Cape Town 8001, South Africa

<http://www.cambridge.org>

© Michael Zander 2004

This book is in copyright. Subject to statutory exception  
and to the provisions of relevant collective licensing agreements,  
no reproduction of any part may take place without  
the written permission of Cambridge University Press.

First edition first published by Weidenfeld and Nicolson 1980

Second edition first published by Weidenfeld and Nicolson 1985

Third edition first published by Weidenfeld and Nicolson 1989

Fourth edition first published by Butterworths 1994

Fifth edition first published by Butterworths 1999

Sixth edition first published by Cambridge University Press 2004

Printed in the United Kingdom at the University Press, Cambridge

Typefaces Minion 9.75/12.5 pt., and Frutiger      System  $\text{\LaTeX}$  2 $\epsilon$  [TB]

*A catalogue record for this book is available from the British Library*

ISBN 0 521 60989 5 paperback

As a critical analysis of the law-making process, this book has no equal. For more than two decades it has filled a gap in the requirements of law students and others taking introductory courses on the legal system. It deals with every aspect of the law-making process: the preparation of legislation; its passage through Parliament; statutory interpretation; binding precedent; how precedent works; law reporting; the nature of the judicial role; European Union law; and the process of law reform. It presents a large number of original texts from a variety of sources – cases, official reports, articles, books, speeches and empirical research studies – laced with the author's informed commentary and reflections on the subject. This book is a mine of information dealing with both the broad sweep of the subject and with all its detailed ramifications.

**Michael Zander QC** is Emeritus Professor of Law at the London School of Economics. He is the author of *Lawyers and the Public Interest*; *Legal Services for the Community*; *Cases and Materials on the English Legal System* (a companion volume in the Law in Context series); *A Bill of Rights?*; *The Police and Criminal Evidence Act 1984*; and *The State of Justice*. He has conducted many empirical studies, is a regular journalist, a frequent broadcaster on radio and television, and is an acknowledged authority on the working of the legal system.

## The Law in Context Series

Editors: William Twining (University College, London) and  
Christopher McCrudden (Lincoln College, Oxford)

Since 1970 the Law in Context series has been in the forefront of the movement to broaden the study of law. It has been a vehicle for the publication of innovative scholarly books that treat law and legal phenomena critically in their social, political, and economic contexts from a variety of perspectives. The series particularly aims to publish scholarly legal writing that brings fresh perspectives to bear on new and existing areas of law taught in universities. A contextual approach involves treating legal subjects broadly, using materials from other social sciences, and from any other discipline that helps to explain the operation in practice of the subject under discussion. It is hoped that this orientation is at once more stimulating and more realistic than the bare exposition of legal rules. The series includes original books that have a different emphasis from traditional legal textbooks, while maintaining the same high standards of scholarship. They are written primarily for undergraduate and graduate students of law and of other disciplines, but most also appeal to a wider readership. In the past, most books in the series have focused on English law, but recent publications include books on European law, globalization, transnational legal processes, and comparative law.

### Books in the Series

Ashworth: *Sentencing and Criminal Justice*  
Barton & Douglas: *Law and Parenthood*  
Bell: *French Legal Cultures*  
Bercusson: *European Labour Law*  
Birkinshaw: *European Public Law*  
Birkinshaw: *Freedom of Information: The Law, the Practice and the Ideal*  
Cane: *Atiyah's Accidents, Compensation and the Law*  
Collins: *The Law of Contract*  
Cranston: *Consumers and the Law*  
Cranston: *Legal Foundations of the Welfare State*  
Davies: *Perspectives on Labour Law*  
Davies & Freedland: *Labour Law: Text and Materials*  
de Sousa Santos: *Toward a New Legal Common Sense*  
Detmold: *Courts and Administrators: A study in Jurisprudence*  
Diduck: *Law's Families*  
Doggett: *Marriage, Wife-Beating and the Law in Victorian England*  
Dummett & Nicol: *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law*  
Elworthy & Holder: *Environmental Protection: Text and Materials*  
Fortin: *Children's Rights and the Developing Law*  
Glover-Thomas: *Reconstructing Mental Health Law and Policy*  
Gobert & Punch: *Rethinking Corporate Crime*  
Goodrich: *Languages of Law*  
Hadden: *Company Law and Capitalism*  
Harlow & Rawlings: *Law and Administration: Text and Materials*  
Harris: *An Introduction to Law*  
Harris: *Remedies, Contract and Tort*  
Harvey: *Seeking Asylum in the UK: Problems and Prospects*  
Hervey & McHale: *Health Law and the European Union*  
Lacey & Wells: *Reconstructing Criminal Law*  
Lewis: *Choice and the Legal Order: Rising above Politics*  
Likosky: *Transnational Legal Processes*

Maughan & Webb: *Lawyering Skills*  
Moffat: *Trusts Law: Text and Materials*  
Norrie: *Crime, Reason and History*  
O'Dair: *Legal Ethics*  
Oliver: *Common Values and the Public-Private Divide*  
Oliver & Drewry: *The Law and Parliament*  
Page & Ferguson: *Investor Protection*  
Palmer & Roberts: *Dispute Processes—ADR and the Primary Forms of Decision Making*  
Picciotto: *International Business Taxation*  
Ramsay: *Consumer Protection: Text and Materials*  
Reed: *Internet Law: Text and Materials*  
Richardson: *Law, Process and Custody*  
Seneviratne: *Ombudsmen: Public Services and Administrative Justice*  
Snyder: *New Directions in European Community Law*  
Stapleton: *Product Liability*  
Turpin: *British Government and the Constitution: Text, Cases and Materials*  
Twining: *Globalisation and Legal Theory*  
Twining & Anderson: *Analysis of Evidence*  
Twining & Miers: *How to do Things with Rules*  
Ward: *A Critical Introduction to European Law*  
Ward: *Shakespeare and Legal Imagination*  
Zander: *Cases and Materials on the English Legal System*  
Zander: *The Law-Making Process*

---

## Preface to the Sixth Edition

There are no major changes since the last edition but some 60 pages of new material have been added. A high proportion of the new material brings the text up to date. But there are a considerable number of topics that cover entirely new or significantly strengthened material. They include: the constitutional changes involving the abolition of the Lord Chancellor; the proposed move of the House of Lords to a Supreme Court and the establishment of a Judicial Appointments Commission; the composition of the House of Lords; the work of the Joint Human Rights Committee of the Lords and Commons; devolution; parliamentary reform including programming and the carry-over of legislation; the parliamentary scrutiny of delegated legislation; the new Court of Appeal practice of delivering composite judgments; developments regarding intervention in litigation by third parties; and the new EU constitution agreed in June 2004. Important new empirical research, especially by Professor Edward Page informs the revision and strengthening of both Chapter 1 and 2.

One of the most important developments since the last edition is the accessibility of a wealth of material (case law, legislation, statutory instruments, parliamentary debates, official committee and governmental reports) online. Web references are given throughout and the index collects references to the website addresses given in the book.

The manuscript was revised up to July 2004.

*Michael Zander*

---

## Preface to the First Edition

The chief purpose of this book is to improve the understanding of the law-making process. For many years I have taught the English Legal System course at the London School of Economics and an equivalent course taken by non-law students. Experience has suggested to me that there is a great gap in the existing literature which this book attempts to fill. It is something between a book of cases and materials, on the one hand, and a textbook on the other. It presents a large number of original texts from a variety of sources – cases, official reports, articles, books, speeches and surveys. It also, however, contains a good deal of the author's own reflections on the subject-matter. The book deals only with the official forms of law-making on a national scale and therefore says nothing about 'private' law-making by lawyers for their clients or by organisations such as trade unions, clubs or companies for their members or shareholders. The book is intended as a companion to the author's *Cases and Materials on the English Legal System* [9th edn, 2004]. There is no overlap between the two books. They are intended to complement each other and together to provide the basic reading required for a university or equivalent course on the legal system. It is hoped that the book will also be of value to anyone concerned to understand how the law-making process actually operates.

January 1980

*Michael Zander*



---

## Acknowledgments

The materials excerpted here are included with the kind permission of those who hold the copyright. A book of this kind would be impossible without their help and I am most indebted to all those who consented to this use of their material. They may be divided into four main groups. There are, first, those who hold copyright over official publications and law reports – the Controller of Her Majesty's Stationery Office, and the Incorporated Council of Law Reporting for England and Wales in relation to the *Law Reports* and the *Weekly Law Reports*, and Butterworths in relation to the *All England Law Reports*. The second group are the publishers and editors of journals from which extracts have been taken – *Australian Law Journal*, *British Tax Review*, *Canadian Bar Review*, *Current Legal Problems*, *International and Comparative Law Quarterly*, *Israel Law Review*, *Journal of the Society of Public Teachers of Law*, *Law Quarterly Review*, *Law Society's Gazette*, *Michigan Law Review*, *Modern Law Review*, *New Law Journal*, *New Society*, *New Zealand Law Review*, *Parliamentary Affairs*, *Public Law*, *Statute Law Review*, *The Lawyer* and *William and Mary Law Review*. The third group are publishers of extracts in books: Oceana Press, for the extracts from Karl Llewellyn's *Bramble Bush*; the Yale University Press, for extracts from Benjamin Cardozo's *The Nature of the Judicial Process*; the BBC, for extracts from a broadcast on the background to the Criminal Justice Bill which was later published in *Beyond Westminster*, edited by Anthony King and Anne Sloman; the Institute of Criminology, Cambridge, for extracts from a paper by Mr Michael Moriarty published in a Cropwood booklet; Hamish Hamilton Ltd, for extracts from the late Lord Radcliffe's book *Not in Feather Beds*, and Hamish Hamilton and Jonathan Cape Ltd, for an extract from *Diaries of a Cabinet Minister* by the late Richard Crossman. Fourthly there are the individual authors themselves: Mr E. Angell, Dame Mary Arden, Professor Patrick Atiyah, Mr G. W. Bartholomew, Mr Francis Bennion, Mr Mark Carlisle QC, MP (now Lord Carlisle), Professor J. A. Clarence Smith, Professor Stephen Cretney, the late Sir Rupert Cross, Sir William Dale, Mr Edmund Dell MP, Lord Devlin, Professor Aubrey Diamond, the late Lord Elwyn-Jones, Sir George Engle, Professor M. D. A. Freeman, Ms G. Ganz, Mr James Goudie QC, Professor J. A. G. Griffith, Dr H. R. Hahlo, the late Professor Delmar Karlen, Sir Harold Kent, Sir Michael Kerr, Professor Anthony King, Mr G. Kolts,

Professor H. K. Lücke, Professor Norman Marsh, Mr Timothy Millett, Mr Michael Moriarty, Dr R. J. C. Munday, Mr Andrew Nicol, Dr Peter North, Lord Russell of Killowen, Mr Alec Samuels, Lord Scarman, Mr I. M. L. Turnbull, Mr D. A. S. Ward, Professor J. Willis, and Mr William Wilson. I am extremely grateful to all those listed, and finally to Mrs Sonia Llewellyn for permission to use extracts from her late husband's work, *The Bramble Bush*.

---

## Books, pamphlets, memoranda and articles excerpted

- Angell, E., 'The Amicus Curiae: American Developments of English Institutions', 16 *International and Comparative Law Quarterly*, 1967, p. 1017 417-18
- Atiyah, Patrick, 'Judges and Policy', *Israel Law Review*, 1980, pp. 360-70 371-80
- Bennion, Francis, book review of Sir William Dale's *Legislative Drafting*, in *Statute Law Review*, 1980, p. 61 39-42
- Braybrooke, E. K., 'Custom as a Source of English Law', 50 *Michigan Law Review*, 1951, pp. 84-88 453-54
- Cardozo, Benjamin N., *The Nature of the Judicial Process* (17th printing, 1960), pp. 48-49, 62-63, 111-15, 129, 141, 167-69 274-75, 332-34, 455
- Clarence Smith, J. A., 'Legislative Drafting: English and Continental', *Statute Law Review*, 1980, pp. 14-22 31-33
- Cohn, Ernst, 'The German Attorney', 9 *International and Comparative Law Quarterly*, 1960, pp. 586-87 487
- Cretney, Stephen, 'The Codification of Family Law', 44 *Modern Law Review*, 1981, pp. 1, 3-5, 6-7, 19 498-502
- Cross, Sir Rupert and Harris, J.W. *Precedent in English Law* (1977), pp. 12-22 256-61
- Crossman, R. H. S., *Diaries of a Cabinet Minister* (1975), vol. 1, pp. 628-29 80
- Dale, Sir William, *Legislative Drafting - a New Approach* (1977), pp. 331-33 29-30
- Devlin, Lord, 'The Process of Law Reform', 63 *Law Society's Gazette*, 1966, pp. 453-62 477
- Devlin, Lord, 'Judges and Lawmakers', 39 *Modern Law Review*, 1976, p. 11 402
- Devlin, Lord, 'Judges, Government and Politics', 41 *Modern Law Review*, 1978, pp. 505-11 357-60
- Devlin, Lord, 'The Judge as Law Maker', in *The Judge* (1979), pp. 3, 5, 9, 17 362-64

- Diamond, Aubrey, 'Codification of the Law of Contract', 31 *Modern Law Review*, 1968, p. 361 492
- Diplock, Lord, 'The Courts as Legislators', Holdsworth Club Lecture, 1965, pp. 5-6 211-12
- Donaldson, 'Review of the Year', *New Law Journal*, 17 October 1986, p. 990 411-12
- Engle, Sir George, 'Bills are made to pass as razors are made to sell: Practical constraints in the preparation of legislation', *Statute Law Review*, 1983, pp. 7, 10-15 21-25
- Freeman, M. D. A., 'Standards of Adjudication, Judicial Lawmaking and Prospective Overruling', 26 *Current Legal Problems*, 1973, p. 166 381-85
- Goudie, James, 'The Paper Chase', *Counsel*, June 1991, p. 8 124-25
- Griffith, J. A. G., *Parliamentary Scrutiny of Government Bills* (1974), pp. 206-07, 231 83-84
- Griffith, J. A. G., *The Politics of the Judiciary* (2nd edn., 1991), pp. 230, 231-2, 235-6 355-57
- Hahlo, H. R., 'Here Lies the Common Law', 30 *Modern Law Review*, 1967, p. 241 488-89, 490-92
- Hart, Henry, and Albert M. Sacks, *The Legal Process* (tentative edn., 1958, mimeographed), pp. 587-88 302-03
- Hopkins, E. R., 'The Literal Canon and the Golden Rule', 15 *Canadian Bar Review*, 1937, p. 689 140-41
- Jowitt, Lord, quoted in 25 *Australian Law Journal*, 1951, p. 278 390
- Karlen, Delmar, 'Appeal in England and the United States', 78 *Law Quarterly Review*, 1962, p. 371 403-04
- Kent, Sir Harold, *In on the Act* (1979), pp. 43-45 18-19
- Kerr, Sir Michael, 'Law Reform in Changing Times', 96 *Law Quarterly Review*, 1980, pp. 515, 517-18, 532 459-60, 481-82, 502-03
- King, A. and Sloman, A. (eds.), *Westminster and Beyond* (1973), chapter 12 75-78
- Kolts, G., 'Observations on the Proposed New Approach to Legislative Drafting in Common Law Countries', *Statute Law Review*, 1980, p. 144 42-45
- Leiber, F., *Legal and Political Hermeneutics* (3rd edn., 1880), p. 18 127-28
- Llewellyn, K. N., *The Bramble Bush* (Oceana edn, 1930), pp. 42-43, 44-45, 47-50, 51-52 270-74
- Lücke, H. K., 'The Common Law: Judicial Impartiality and Judge-Made Law', 98 *Law Quarterly Review*, 1982, pp. 29, 60-61, 62, 74-76, 88 334-35, 477-78
- Marsh, Norman, 'Law Reform in the United Kingdom: A New Institutional Approach', 13 *William and Mary Law Review*, 1971, p. 263 467-68, 478-79
- Mason, Alpheus T., *Brandeis* (1956), pp. 248-51 281-82
- Millett, Timothy, 'A Comparison of British and French Legislative Drafting', *Statute Law Review*, 1986, pp. 130, 156-60 34-36

- Moriarty, Michael, 'The Policy-Making Process: How It Is Seen from the Home Office', in N. Walker (ed.), *Penal-Policy-Making in England* (1977), pp. 132–39 3–5
- Munday, R. J. C., 'New Dimensions of Precedent', *Journal of the Society of Public Teachers of Law*, 1978, p. 201 314–17
- Nicol, Andrew, 'Prospective Overruling; A New Device for English Courts', 39 *Modern Law Review*, 1976, p. 542 399–402
- North, Dr Peter, 'Law Reform: Processes and Problems', 101 *Law Quarterly Review*, 1985, p. 338 470–73
- Paterson, Professor Alan, *The Law Lords* (1982), pp. 156–57 223
- Radcliffe, Lord, *Not in Feather Beds* (1968), pp. 212–16 301–02, 330–32
- Ram, Sir Granville, 'The Improvement of the Statute Book', *Journal of the Society of Public Teachers of Law*, NS, 1951, pp. 442, 447–49 10–13, 16–18
- Reid, Lord, 'The Judge as Law Maker', 12 *Journal of the Society of Public Teachers of Law*, NS, 1972, pp. 22, 24–27, 28 367–69
- Russell, Sir Charles, 'Behind the Appellate Curtain', Holdsworth Club Lecture, Birmingham University, 1969, pp. 3–8 288–90
- Sacks, Albert M. *See* Hart, Henry
- Samuels, Alec, 'Is It in Force or Isn't It?', *The Magistrate*, November 1979, pp. 173–74 99–101
- Sandford, Cedric, 'Open Government: the Use of Green Papers', *British Tax Review*, 1980, p. 351 9–10
- Scarman, Mr Justice, 'A Code of English Law?', Speech at Hull University, 1966 484–86
- Scarman, Mr Justice, 'Codification and Judge-made Law', Speech at Birmingham University, 1966 486–87
- Scarman, Mr Justice, *Law Reform – The New Pattern* (1968), pp. 11–16 465–66
- Stevens, Robert, *Law and Politics, 1800–1976* (1979), pp. 468–88 365–67
- Stone, J., 'The Ratio of the Ratio Decidendi', 22 *Modern Law Review*, 1959, pp. 597–98 360–61
- Stone, O., 'Knowing the Law', 24 *Modern Law Review*, 1961, pp. 476–47 360–61
- Study of Parliament Group, 'Private Bill Procedure: a Case for Reform', *Public Law*, 1981, p. 206 313–14
- Turnbull, I. M. F., 'Problems of Legislative Drafting', *Statute Law Review*, 1986, pp. 72–73 192
- Ward, D. A. S., 'A Criticism of the Interpretation of Statutes in the New Zealand Courts', *New Zealand Law Journal*, 1963, p. 293 189–90
- Willis, J., 'Statute Interpretation in a Nutshell', 16 *Canadian Bar Review*, 1938, pp. 13–1 148
- Wilson, William, 'The Consolidation of Statutes', *Law Society's Gazette*, 30 January 1980, p. 84 64–66

---

## Table of cases

- Absalom v Talbot [1943] 1 All ER 589 457  
Adams v Adams [1971] P. 188 415–16  
Addie v Dumbreck (1929) AC 358 384–5, 392  
Adler v Dickson [1955] 1 QB 158 361  
*The Aello* [1961] AC 135 220  
The Altrincham Electric Supply Co. Ltd v Sale UDC (1936) 154 LTR 379 148  
n. 28  
Amanuel v Alexandros Shipping Co. (*The Alexandros P*) [1986] 1 All ER 278 254  
American Textile Mfrs Inst. v Donovan 452 US 490 (1981) 122  
Anderton v Ryan [1985] 2 All ER 355 221–2, 446–7  
Anns v Merton London Borough [1978] AC 728 221  
Arcaro case: *see* Case C-168/95 Arcaro [1996] ECR I-4705  
Armah v Government of Ghana [1968] AC 192 152  
Arnold v National Westminster Bank plc [1988] 3 All ER 977 216 n. 1  
Assam Railways & Trading Co. Ltd v Inland Revenue Comrs. [1935] AC 445 134  
Aston Cantlow PCC v Wallbank [2003] UKHL 37 481  
Attorney General v Prince Ernest Augustus of Hanover [1957] AC 436 150, 157  
Attorney-General for NSW v Perpetual Trustees Co. (1952), 85 CLR 189 261  
Australian Consolidated Press Ltd v Uren [1967] 3 All ER 523 261  
Awwad v Geraghty [2000] 1 All ER 608 244
- B v B [1978] 236, 237  
Bank of England v Vagliano Brothers [1891] AC 107, HL 495  
Bannister v S.G.B. plc [1997] 4 All ER 129 292  
Barker v Wilson [1980] 1 WLR 884 198  
Barrington v Lee [1972] 1 QB 326 241  
Bates v IRC [1968] AC 483 457  
Beamish v Beamish (1861) 9 HLC 274 217  
Beith's Trustees v Beith 1950 SC 66 260  
Bellinger v Bellinger [2003] UKHL 21, [2003] 2 AC 467 187–8  
Bendall v McWhirter [1952] 2 QB 466 381

- Bennett v Daniel (1830) 10 B. & C. 500 142
- Bennett v Orange City Council [1967] 1 NSW 502 239
- Bestuur der Sociale Verzekeringsbank v Van der Vecht [1968] CMLR 151 209
- Beswick v Beswick, [1966] Ch. 538 (CA), [1968] AC 58 (HL) 162, 207 n. 138, 227
- Black-Clawson International Ltd. v Papierwerke Waldhof-Aschaffenburg [1975] AC 591 149, **159–61**, 165, 166
- Bourne (Inspector of Taxes) v Norwich Crematorium [1967] 2 All ER 576 213
- Brasserie du Pêcheur v Germany: *see* 48/93 R v Secretary of State for Transport *ex parte* Factortame Ltd; Cases 46/93 Brasserie du Pêcheur v Germany
- Bright v Hutton (1852) 3 HL Cas. 341 234
- British & Foreign Marine Insurance Co. Ltd v Sanday & Co. [1916] 1 AC 650, HL 495 n 50
- British Movietonews Ltd v London and District Cinemas Ltd [1952] AC 166 361
- British Railways Board v Herrington [1972] AC 877, [1972] 1 All ER 749, HL, [1972] 2 WLR 537 220, 384–5, 386, 392
- British Telecom Case: *see* Case 323/93 Queen v HM Treasury, *ex parte* British Telecom (1996) ECR I-1632
- Bromley London Borough Council v Greater London Council [1982] 2 WLR 62 (HL) 122
- Broome v Cassell [1971] 2 QB 354 225–6, 367 n. 90
- Brown v Brown [1967] P. 105 150
- Brunner v European Union Treaty [1994] 1 CMLR 577 438
- Brutus v Cozens [1973] AC 854 198
- Buchanan and Co. Ltd v Babco Forwarding and Shipping (UK) Ltd [1977] 2 WLR 107 (Court of Appeal) **209–11**
- Bulmer Ltd v J. Bollinger S.A. [1974] CL 401 **208–9**
- Button v DPP [1966] AC 591 442
- C. v DPP [1994] 3 All ER 190, [1995] 2 All ER 43 387
- Cabanis-Isarte: *see* Case C-308/93 Cabanis-Isarte [1996] CMLR 729
- Cabell v Markham (1945) 148 F 2d 737 195
- Callery v Gray [2001] EWCA Civ 1117, [2001] 1 WLR 2112 292
- Callery v Gray (No. 2) [2001] EWCA Civ 1246, [2001] 4 All ER 182
- Camden (Marquis) v CIR [1914] 1 KB. 641 141
- Candler v Crane, Christmas [1951] 2 KB 164 361, 390, 400
- Cantliff v Jenkins [1978] 236
- Carlisle and Cumberland Banking Co. v Bragg [1911] 1 KB 489 233
- Carlsen v Rasmussen [1999] 3 CMLR 854 438
- Carr v Mercantile Products Ltd [1949] 2 KB 601 251
- Cartledge v D. Jopling & Sons [1963] AC 758 366–7
- Case 6/64 Costa v ENEL [1964] ECR 585 437–8
- Cases 6/90 and C-9/90 Francovich and Bonfazi v Italy [1991] ECR I-5357, [1993] 2 CMLR 66 436

- Case 9/70 Franz Grad v Finanzamt Traunstein [1970] ECR 825, [1971] CMLR I 437
- Case 10/89 CNL-Sucal v HAG GF [1990] ECR-I-3711 262
- Case 14/83 Von Colson and Kamann v Land Nordrhein-Westfalen [1984] 1891 436
- Cases 21-24/72 International Fruit Co v Productschap voor Groenten en Fruit (1972) ECR 1219, [1975] 2 CMLR I 437
- Case 25/62 Plaumann v Commission [1963] ECR 95 432
- Case 26/62 Van Gend en Loos (1963) ECR I 437-8
- Case 39/72 Commission v. Italy (1973) ECR 101, [1973] CMLR 439 435
- Case 41/74 Van Duyn v Home Office (1974) ECR 1337 435
- Cases 46/93 Brasserie du Pêcheur v Germany; 48/93 R v Secretary of State for Transport ex parte Factortame Ltd [1996] ECR I-4845 436
- Case 80/86 Kolpinghuis Nijmegen BV [1987] ECR 3969, [1989] 2 CMLR 18 436
- Case 91/92 Faccini Dori v Recreb Srl (1994) ECR I 3325 435, 436
- Case 92/78 Simmenthal v Commission [1979] ECR 777 434
- Case 104/81 Hauptzollamt Mainz v Kupferberg (1982) ECR 3641, [1983] 1 CMLR I 437
- Case 106/89 Marleasing SA v La Comercial Internacional de Alimentacion SA [1990] ECR I-4135, [1992] CMLR 305 436
- Case 121/97 Commission v Germany O.J., 1997, C166/7 432-3
- Case 148/78 Pubblico Ministero v Tullio Ratti (1979) ECR 1629, [1980] 1 CMLR 96 435
- Case 152/84 Marshall v Southampton and South West Hampshire Area Health Authority (Teaching) Case [1986] ECR 723 435
- Case 168/95 Arcaro [1996] ECR I-4705 436
- Cases 178/94, C-179/94 C-188/94, C-189/94 and C-190/94 Dillenkofer and Others [1996] ECR I-1845 436
- Case 188/89 Foster v British Gas plc [1990] ECR 3313 436
- Case 188/89 Foster v British Gas plc [1990] ECR 3313, *see also* Foster v British Gas plc [1991] 2 AC 306
- Case 188/91 Deutsche Shell-Hauptzollamt Hamburg-Harburg [1993] ECRI-363 438-9
- Case 224/01 Köbler v Austria ECJ [2003] All ER (D) 73 (Oct.) 436-7
- Case 231/82 Spijker v Commission [1983] ECR 2559 432
- Case 308/93 Cabanis-Isarte [1996] CMLR 729 262
- Case 314/85 Foto-Frost v Hauptzollamt Lubeck-Ost [1987] ECR 4199 438
- Case 322/88 Grimaldi v Fonds des Maladies Professionnelles [1989] ECR 4407 438-9
- Case 323/93 Queen v HM Treasury, ex parte British Telecom (1996) ECR I-1632 436
- Case 334/92 Wagner Miret v Fondo de Garantia Salarial [1993] ECR I-6911 436
- Case 387/97 Commission v Hellenic Republic [2000] ECJ I-5047 432-3



- Case 443/98 UnileverItalia v Central Food [2000] ECR I-7535 435
- Case 1994/94 CIA Security International SA v Signalson SA and Securitel SPRL [1996] ECR I-2201 435, 436
- Case T-162/94 NMB France and Others v Commission [1996] ECR II-427 262
- Case T-586/93 Kotzonis v ESC [1995] ECR II-665 262
- Casey v Casey [1949] P. 420 240
- Cassell v Broome [1972] AC 479, 535.20, 565.1, Northumberland Compensation Appeal Tribunal [1951] 1 KB 711
- Central London Property Trust Ltd v High Trees House Ltd [1947] KB 130 361
- Charter v Race Relations Board [1973] 1 All ER 512; [1973] AC 868 162
- Chief Adjudication Officer v Foster [1993] 2 WLR 292 170, 171
- CIA Security International SA v Signalson SA and Securitel SPRL: *see* Case C-1994/94 CIA Security International SA v Signalson SA and Securitel SPRL [1996] ECR I-2201
- Clarke v Kato, Cutter v Eagle Star Insurance Co Ltd [1998] 4 All ER 417 213
- Cocksedge v Fanshaw (1779) 1 Doug. KB 119 452
- Colchester Estates (Cardiff) v Carlton Industries plc [1984] 2 All ER 601 251-3
- Colonroll Pension Trustees Ltd v Russell [1995] All ER (EC) 23 434
- Commission v Hellenic Republic: *see* Case C-387/97 Commission v Hellenic Republic [2000] ECJ I-5047
- Congreve v Home Office [1976] QB 629 122
- Conway v Rimmer [1968] 1 All ER 874 204
- Conway v Rimmer [1968] AC 910 223
- Cordell v Second Clanfield Properties Ltd [1968] 3 WLR 864 448
- Costa v ENEL: *see* Case 6/64 Costa v ENEL [1964] ECR 585
- Cox v Hakes (1890) 15 App. Cas. 506 142 n. 23
- Crook v Edmondson [1966] 1 All ER 833 (Divisional Court, QBD) 153-5
- Customs and Excise Commissioners v Aps Samex (Hanil) Synthetic Fiber Industrial Co. Ltd [1983] 1 All ER 1042 431-2
- Da Costa case [1963] CMLR 224 209
- David Cooke (2 December 1996, unreported, CA No. 9604988) 395
- Davis v Johnson [1979] AC 264 161-4, 232-9, 244
- Davy v Leeds Corporation [1964] 1 WLR 1218 25
- De Lasala v de Lasala [1979] 2 All ER 1146 320 n. 18
- Deutsche Shell-Hauptzollamt Hamburg-Harburg: *see* Case 188/91 Deutsche Shell-Hauptzollamt Hamburg-Harburg [1993] ECR I-363
- Dillenkofer Case: *see* Cases 178/94, C-179/94 C-188/94, C-189/94 and C-190/94 Dillenkofer and Others [1996] ECR I-1845
- Dockers' Labour Club and Institute Ltd. v Race Relations Board 42 [1974] 3 All ER 592; [1976] AC 285 162
- Doncaster Borough Council v Secretary of State for the Environment (1993, unreported) 171