

2008/2009

Contract, Tort and Remedies

General Editor **D.G. Cracknell**

- unannotated – ideal for exam use
- updated annually

Contract, Tort and Remedies

2008-2009

**D.G. Cracknell, LLB, of the Middle Temple,
Barrister**

 **Routledge·Cavendish**
Taylor & Francis Group
LONDON AND NEW YORK

Fifth edition published 2008 by Routledge-Cavendish
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN
Simultaneously published in the USA and Canada
by Routledge-Cavendish
270 Madison Avenue, New York, NY 10016

Routledge-Cavendish is an imprint of the Taylor & Francis Group, an informa business

© 2009 Routledge-Cavendish

Previous editions published by Old Bailey Press

First edition 1997

Fifth Edition 2007

Typeset in Garamond

Printed and bound in Great Britain by Cromwell Press, Trowbridge, Wiltshire

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

British Library Cataloguing in Publication Data

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

Library of Congress Cataloging in Publication Data

Cracknell, D. G.

Contract, tort, and remedies, 2008-2009 / D.G. Cracknell. -- 5th ed.

p. cm.

Includes index.

1. Contracts--England. 2. Contracts--Wales. 3. Torts--England. 4. Torts--Wales.

5. Remedies (Law)--England. 6. Remedies (Law)--Wales. I. Title.

KD1554.C73 2008

346.4202--dc22

2008033608

ISBN10: 0-415-45831-5 (pbk)

ISBN13: 978-0-415-45831-3 (pbk)

Contract, Tort and Remedies

2008-2009

Previously published by Old Bailey Press as the *Cracknell's Statutes* series, Routledge-Cavendish Core Statutes provide a comprehensive series of essential statutory provisions for the core subjects and major options on the LLB or GDL.

Each book in the series

- provides the precise wording of Acts of Parliament and is unannotated, making it ideal for both course and exam use
- is updated annually to incorporate all of the latest legislation covered in most UK law syllabi
- features consolidated amendments, avoiding the need to cross-refer to amending legislation
- contains both alphabetical and chronological contents listings and is fully indexed

Douglas Cracknell was called to the Bar in 1957 and he is still in practice. Over the years, he has devoted much time to writing and editing textbooks for students and practitioners.

Routledge-Cavendish Core Statutes

New editions available for 2008-2009:

Constitutional and Administrative Law

Contract, Tort and Remedies

Criminal Law

Equity and Trusts

Family Law

International Trade Law

Land Law

Other titles available:

English Legal System (2008)

European Union Legislation (2008)

PREFACE

This book sets out the text of those statutory provisions a knowledge of which is essential for the purpose of most Contract and Tort examinations. Whenever a statutory provision is here included, the text incorporates any repeals, insertions or substitutions made (and in force) on or before 1 June 2008. A note at the end of the Act or statutory instrument indicates the source of any changes.

Many changes have been made in this edition. The new material includes relevant provisions of the Mental Capacity Act 2005, the Consumer Credit Act 2006, the Consumers, Estate Agents and Redress Act 2007 and the Consumer Protection from Unfair Trading Regulations 2008.

Since they were not in force on 1 June 2008, relevant sections of the NHS Redress Act 2006 and the Legal Services Act 2007 are included in the Appendix.

Suggestions as to statutes or statutory instruments, or provisions of them, which could helpfully be included in future editions would always be most gratefully received.

ALPHABETICAL TABLE OF STATUTES AND REGULATIONS

Administration of Justice Act 1970	39	Civil Liability (Contribution) Act 1978	
s44	39	(<i>contd.</i>)	
s44A	39	s1	75
Administration of Justice Act 1982		s2	75–76
124–125		s3	76
s1	124	s4	75–76
s2	124	s5	76
s5	125	s6	76
Animals Act 1971	39–43	s7	76–77
s1	39–40	Companies Act 1985	127–129
s2	40	s1	127
s3	40	s3A	127
s4	40	s14	127
s5	40–41	s35	128
s6	41	s35A	128
s7	41–42	s35B	128
s8	42	s36	129
s9	42	s36A	129
s10	43	s36AA	129
s11	43	s36C	129
s12	43	Compensation Act 2006	231–235
Bills of Exchange Act 1882	5–6	s1	231
s3	5	s2	231
s17	5	s3	231–233
s26	5	s4	233–234
s27	5–6	s5	234
s73	6	s6	234
s83	6	s16	234–235
Broadcasting Act 1990	146–147	Congenital Disabilities (Civil Liability) Act	
s166	146	1976	55–58
s201	146	s1	55–56
s202	146	s1A	56–57
s203	147	s2	57
Schedule 20	147	s3	57
Children Act 1989	142–143	s4	57–58
s2	142–143	s5	58
s3	143	Consumer Credit Act 1974	52–54
Civil Evidence Act 1968		s56	52
s13	37	s140A	52–53
Civil Liability (Contribution) Act 1978		s140B	53
75–77		s140C	53–54
		s140D	54

Consumer Protection Act 1987	132–138	Crown Proceedings Act 1947	23–26
s1	132–133	s1	23–24
s2	133	s2	24
s3	133–134	s4	24–25
s4	134	s11	25
s5	134–135	s21	25
s6	135–136	s38	25–26
s7	136	s40	26
s8	136		
s9	136	Damages Act 1996	172–177
s45	136–137	s1	172
s46	137–138	s2	172–173
Consumer Protection from Unfair Trading Regulations 2008	247–255	s2A	174
Contracts (Applicable Law) Act 1990	143–145	s2B	174–175
s1	143–144	s3	175
s2	144	s4	175–176
s3	144	s6	176
Consumers, Estate Agents and Redress Act 2007		s7	176–177
s59	236	Defamation Act 1952	27–28
Contracts (Rights of Third Parties) Act 1999	201–205	s2	27
s1	201–202	s3	27
s2	202	s5	27
s3	203	s6	27–28
s4	203	s9	28
s5	203	s10	28
s6	203–204	s11	28
s7	204–205	s12	28
s8	205	s13	28
s10	205	s16	28
Corporate Bodies' Contracts Act 1960	31	s17	28
s1	31	Defamation Act 1996	163–172
s2	31	s1	163–164
Countryside and Rights of Way Act 2000	208–212	s2	164
s1	208–209	s3	164–165
s2	209–210	s4	165
s12	210	s7	165
s45	210	s8	165–166
Schedule 2	210–212	s9	166
Courts and Legal Services Act 1990	145	s10	166–167
s61	145	s13	167
s69	145	s14	167
s119	145	s15	168
Criminal Law Act 1967		s17	168
s3	36	s20	168
		Schedule 1, Part I	168–169
		Schedule 1, Part II	169–171
		Schedule 1, Part III	171–172
		Defective Premises Act 1972	44–47

Defective Premises Act 1972 (*contd.*)

- s1 44
- s2 44–45
- s3 45
- s4 46
- s5 46
- s6 46–47

Electronic Commerce (EC Directive)

Regulations 2002 244–245

Employers' Liability (Defective Equipment)
Act 1969

- s1 38

Employment Rights Act 1996

- s203 162

Environmental Protection Act 1990

147–148

- s33 147
- s73 147–148
- s75 148

Equality Act 2006 229–231

- s44 229
- s45 229
- s66 230
- s68 230
- s69 230
- s72 230
- s74 231

Factors Act 1889 7–8

- s1 7
- s2 7
- s3 8
- s4 8
- s5 8
- s6 8
- s7 8

Family Law Reform Act 1969 38–39

- s1 38–39
- s9 39
- s1 73
- s9 73

Fatal Accidents Act 1976 58–60

- s1 58–59
- s1A 59
- s2 59–60
- s3 60
- s4 60
- s5 60

Financial Services and Markets Act 2000
205–206

- s412 205–206

Schedule 2, Part II 206

Fires Prevention (Metropolis) Act 1774

- s86 1

Gambling Act 2005 228–229

- s3 228
- s335 228
- s336 228–229

Government of Wales Act 2006

235–236

- s1 235
- s42 235
- s45 236

Guard Dogs Act 1975 55

- s1 55
- s5 55
- s7 55

Health and Social Care (Community Health
and Standards) Act 2003 212–215

- s150 212–213
- s163 213
- s164 213–214
- s166 214
- Schedule 10 214–215

Highways Act 1980 109–110

- s41 109
- s58 109–110
- s328 110
- s329 110

Hire-Purchase Act 1964 32–35

- s27 32–33
- s28 33–34
- s29 34–35

Housing Grants, Construction and
Regeneration Act 1996 177–181

- s104 177
- s105 177–178
- s106 178–179
- s107 179
- s108 179
- s109 179
- s110 180
- s111 180
- s112 180–181
- s113 181

- Housing Grants, Construction and Regeneration Act 1996 (*contd.*)
- s114 181
 - s116 181
 - s117 181
- Human Fertilisation and Embryology Act 1990
- s35 145
- Human Rights Act 1998 199–201
- s1 199
 - s6 199
 - s8 199–200
 - s11 200
 - s12 200
 - s13 200
 - s21 201
- Insolvency Act 1986
- s345 131
- Judgments Act 1838 2–3
- s17 2
 - s18 2–3
- Late Payment of Commercial Debts (Interest) Act 1998 192–198
- s1 192
 - s2 192
 - s3 192–193
 - s4 193
 - s5 193
 - s5A 194
 - s6 194
 - s7 194
 - s8 194–195
 - s9 195
 - s10 195
 - s11 196
 - s12 196
 - s13 197
 - s14 197
 - s16 197
 - s17 197–198
- Latent Damage Act 1986 129–131
- s3 129–130
 - s4 130–131
 - s5 131
- Law of Libel Amendment Act 1888 6–7
- s1 6
- Law of Libel Amendment Act 1888 (*contd.*)
- s5 6
- Law of Property Act 1925 16–18
- s41 16
 - s49 16
 - s52 16–17
 - s53 17
 - s54 17
 - s55 17
 - s56 17–18
 - s205 18
- Law of Property (Miscellaneous Provisions) Act 1989 140–142
- s1 140–141
 - s2 141–142
 - s3 142
- Law Reform (Contributory Negligence) Act 1945 22–23
- s1 22–23
 - s3 23
 - s4 23
- Law Reform (Frustrated Contracts) Act 1943 21–22
- s1 21
 - s2 21–22
 - s3 22
- Law Reform (Husband and Wife) Act 1962 32
- s1 32
 - s3 32
- Law Reform (Married Women and Tortfeasors) Act 1935 19–20
- s1 19
 - s2 19–20
 - s3 20
 - s4 20
- Law Reform (Miscellaneous Provisions) Act 1934
- s1 18–19
- Law Reform (Personal Injuries) Act 1948 26–27
- s1 26
 - s2 27
 - s3 27
 - s4 27
- Legal Services Act 2007 258
- s114 258
 - s115 258

Legal Services Act 2007 (*contd.*)

s116 258

s154 258

Libel Act 1792 1–2

s1 2

s2 2

Libel Act 1843 4

s1 4

s2 4

Libel Act 1845

s2 4–5

Limitation Act 1980 96–109

s1 96

s2 96

s3 96

s4 96–97

s4A 97

s5 97

s6 97–98

s7 98

s8 98

s9 98

s10 98

s11 98–99

s11A 99–100

s12 100

s13 100

s14 101

s14A 101–102

s14B 102–103

s24 103

s28 103

s28A 104

s29 104

s30 104

s31 104–105

s32 105

s32A 106

s33 106–107

s36 107–108

s38 108–109

s39 109

Limited Liability Partnerships Act 2000
207–208

s1 207

s2 207

s4 207

s5 207–208

Limited Liability Partnerships Act 2000
(*contd.*)

s6 208

Limited Partnerships Act 1907 15–16

s3 15

s4 15

s6 15–16

s7 16

Marine Insurance Act 1906 11–15

s1 11

s3 11

s4 11

s5 11–12

s17 12

s18 12

s19 12

s20 12–13

s21 13

s33 13

s34 13

s35 13

s36 13

s37 13

s38 14

s39 14

s40 14

s41 14

s42 14

s86 14

s87 14–15

s88 15

s91 15

Matrimonial Causes Act 1973

s34 51–52

Mental Capacity Act 2005 215–228

s1 215

s2 215

s3 216

s4 216–217

s5 217

s6 217–218

s7 218

s8 218

s9 218

s10 219

s11 219–220

s12 220

Mental Capacity Act 2005 (contd.)

s13	220–221
s14	221
s15	222
s16	222
s17	222–223
s18	223
s19	223–224
s20	224–225
s21	225
s22	225
s23	225–226
s24	226
s25	226–227
s26	227
s27	227–228
s28	228

Minors' Contracts Act 1987 131–132

s1	131–132
s2	132
s3	132
s4	132

Misrepresentation Act 1967 35–36

s1	35
s2	35
s3	36

**National Minimum Wage Act 1998
198–199**

s1	198
s49	198–199

NHS Redress Act 2006 256–257

s1	256
s2	256–257
s3	257
s7	257
s12	257–258

Occupiers' Liability Act 1957 29–31

s1	29
s2	29–30
s3	30
s5	30–31
s6	31

Occupiers' Liability Act 1984 125–126

s1	125–126
s1A	126
s3	126

Parliamentary Papers Act 1840 3–4

s1	3
s2	3
s3	3–4
s4	4

Partnership Act 1890 8–10

s1	8
s4	9
s5	9
s6	9
s7	9
s8	9
s9	9
s10	9
s11	9
s12	10
s45	10

Police Act 1996

s88	161–162
-----	---------

Police and Criminal Evidence Act 1984

s117	126
------	-----

Powers of Attorney Act 1971

s4	43
----	----

Property Misdescriptions Act 1991

148–149	
s1	148–149
s2	149

**Protection from Harassment Act 1997
190–191**

s1	190
s3	191
s3A	191
s7	191

Public Passenger Vehicles Act 1981

s29	110
-----	-----

Railway Fires Act 1905 10–11

s1	10
s4	10–11

Rent Act 1977

s125	67–68
------	-------

Road Traffic Act 1988 138–140

s148	138–139
s149	139–140

**Sale and Supply of Goods to Consumers
Regulations 2002 245–246**

Sale of Goods Act 1979	77–96
s2	77

Sale of Goods Act 1979 (*contd.*)

s3	77
s4	77
s5	77
s6	78
s7	78
s8	78
s9	78
s10	78
s11	78
s12	79
s13	79
s14	79–80
s15	81
s15A	81
s16	81
s17	81
s18	81–82
s19	82
s20	83
s20A	83
s20B	83–84
s21	84
s23	84
s24	84
s25	84–85
s26	85
s27	85
s28	85
s29	85
s30	85–86
s31	86
s32	86
s33	86–87
s34	87
s35	87
s35A	87
s36	88
s37	88
s38	88
s39	88
s41	88
s42	89
s43	89
s44	89
s45	89
s46	89–90
s47	90

Sale of Goods Act 1979 (*contd.*)

s48	90
s48A	90–91
s48B	91
s48C	91
s48D	92
s48E	92
s48F	92
s49	92
s50	92–93
s51	93
s52	93
s53	93
s54	93
s55	94
s57	94
s59	94
s60	94
s61	94–95
s62	95–96

Slander of Women Act 1891

s1	10
----	----

Social Security (Recovery of Benefits) Act

1997	181–190
s1	181–182
s2	182
s3	182
s4	182–183
s5	183
s6	183
s7	184
s8	184–185
s9	185
s10	185
s11	185–186
s12	186
s13	186
s15	186
s17	186
s21	187
s22	187
s28	187
s29	187–188

Schedule 1, Part I	188
--------------------	-----

Schedule 1, Part II	189
---------------------	-----

Schedule 2	189–190
------------	---------

Statute of Frauds 1677

s4	1
----	---

Statute of Frauds Amendment Act 1828

s6 2

Supply of Goods and Services Act 1982

114–124

s1 114

s2 114–115

s3 115

s4 115–116

s5 116

s5A 116–117

s6 117

s7 117

s8 117

s9 117–118

s10 118–119

s10A 119

s11 119

s11M 119–120

s11N 120

s11P 120

s11Q 121

s11R 121

s11S 121

s12 121–122

s13 122

s14 122

s15 122

s16 122

s18 122–124

s19 124

Supply of Goods (Implied Terms) Act 1973

47–51

s8 47

s9 47–48

s10 48–49

s11 49–50

s11A 50

s12 50

s14 50

s15 50–51

Supreme Court Act 1981 111–114

s32 111

s32A 111

s35A 111–112

s37 112–113

Supreme Court Act 1981 (*contd.*)

s49 113

s50 113

s69 113–114

Theatres Act 1968 36–37

s4 36

s7 36–37

Torts (Interference with Goods) Act 1977

60–67

s1 60–61

s2 61

s3 61–62

s4 62

s5 62

s6 62–63

s7 63

s8 63–64

s9 64

s10 64

s11 64

s12 64–65

s13 65

s14 65

s16 66

Schedule 1, Part I 66–67

Schedule 1, Part II 67

Trade Union and Labour Relations

(Consolidation) Act 1992 150–161

s1 150

s10 151

s11 151

s12 151

s20 151–152

s21 152–153

s22 153

s23 153–154

s119 154

s121 155

s122 155

s127 155

s130 155

s219 156

s220 156

s221 156–157

s222 157

Trade Union and Labour Relations
(Consolidation) Act 1992 (*contd.*)

s223	157
s224	158
s225	158–159
s226	159
s236	160
s244	160
s298	160–161

Unfair Contract Terms Act 1977 68–75

s1	68
s2	68–69
s3	69
s4	69
s5	69
s6	69–70
s7	70

Unfair Contract Terms Act 1977 (*contd.*)

s9	70
s10	70–71
s11	71
s12	71
s13	71–72
s14	72
s26	72
s27	72–73
s29	73

Schedule 1 73–74

Schedule 2 74

Unfair Terms in Consumer Contracts

Regulations 1999 237–244

Water Resources Act 1991 149–150

s208	149–150
s221	150

CONTENTS

Preface	xi
Alphabetical Table of Statutes and Regulations	xiii
<i>Statutes</i>	
Statute of Frauds 1677	1
Fires Prevention (Metropolis) Act 1774	1
Libel Act 1792	1–2
Statute of Frauds Amendment Act 1828	2
Judgments Act 1838	2–3
Parliamentary Papers Act 1840	3–4
Libel Act 1843	4
Libel Act 1845	4–5
Bills of Exchange Act 1882	5–6
Law of Libel Amendment Act 1888	6–7
Factors Act 1889	7–8
Partnership Act 1890	8–10
Slander of Women Act 1891	10
Railway Fires Act 1905	10–11
Marine Insurance Act 1906	11–15
Limited Partnerships Act 1907	15–16
Law of Property Act 1925	16–18
Law Reform (Miscellaneous Provisions) Act 1934	18–19
Law Reform (Married Women and Tortfeasors) Act 1935	19–20
Law Reform (Frustrated Contracts) Act 1943	21–22
Law Reform (Contributory Negligence) Act 1945	22–23
Crown Proceedings Act 1947	23–26
Law Reform (Personal Injuries) Act 1948	26–27
Defamation Act 1952	27–28
Occupiers' Liability Act 1957	29–31
Corporate Bodies' Contracts Act 1960	31

Law Reform (Husband and Wife) Act 1962	32
Hire-Purchase Act 1964	32–35
Misrepresentation Act 1967	35–36
Criminal Law Act 1967	36
Theatres Act 1968	36–37
Civil Evidence Act 1968	37
Employers' Liability (Defective Equipment) Act 1969	38
Family Law Reform Act 1969	38–39
Administration of Justice Act 1970	39
Animals Act 1971	39–43
Powers of Attorney Act 1971	43
Defective Premises Act 1972	44–47
Supply of Goods (Implied Terms) Act 1973	47–51
Matrimonial Causes Act 1973	51–52
Consumer Credit Act 1974	52–54
Guard Dogs Act 1975	55
Congenital Disabilities (Civil Liability) Act 1976	55–58
Fatal Accidents Act 1976	58–60
Torts (Interference with Goods) Act 1977	60–67
Rent Act 1977	67–68
Unfair Contract Terms Act 1977	68–75
Civil Liability (Contribution) Act 1978	75–77
Sale of Goods Act 1979	77–96
Limitation Act 1980	96–109
Highways Act 1980	109–110
Public Passenger Vehicles Act 1981	110
Supreme Court Act 1981	111–114
Supply of Goods and Services Act 1982	114–124
Administration of Justice Act 1982	124–125
Occupiers' Liability Act 1984	125–126
Police and Criminal Evidence Act 1984	126
Companies Act 1985	127–129