

# Environmental Law for the Built Environment

**Jack Rostron**

**Foreword by Cherie Booth QC**



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# ENVIRONMENTAL LAW FOR THE BUILT ENVIRONMENT

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# **ENVIRONMENTAL LAW FOR THE BUILT ENVIRONMENT**



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## FOREWORD

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The growth in concern for the environment in recent decades has a dual focus, which is both internationalist and local. Internationalist in the sense that we can only address effectively global problems such as climate change through international co-operation. Internationalist also because such concern extends to the environment beyond our own borders. There is increasing recognition of the responsibility borne by developed countries to address the environmental impact of their own levels of consumption. There is also a growing awareness of the needs of those in the developing world whose dependence on natural resources makes them especially vulnerable to environmental changes such as desertification and the range of climatic effects likely to result from global warming.

The more 'local' aspect of concern about the environment relates to people's sense of how the environment impacts on their own and their family's standard of living in terms of their health and general well being. This includes the working environment, as highlighted in the book, for example, in the section on Sick Building Syndrome. To this human-centred concern for the environment is added a deep sense of the intrinsic value of the natural environment and its cultural importance and the book highlights the way in which the regulation of matters, such as environmental water quality, is critical for both human and intrinsically environmental protection. The local impact of global warming is also addressed, for example, in relation to the issue of flooding in Chapter 4. Different kinds of locality pose specific challenges as recognised in the final chapter which addresses the need to ensure both rural and urban regeneration.

Environmental concern has led to an enormous increase in legislation and to the development of new technologies aimed at reducing degradation of the environment. Information about these developments is increasingly accessible to those interested in the environment both through legislative provision for access to environmental information and through the use of information technology, in particular, the internet, by industry and civil society as well as by governments. Greater access to information facilitates informed scrutiny of the law and its operation but, in sifting through the vast amounts of information now available, it is important to have access to a comprehensive but readable guide to the laws which frame environmental decision making and which regulate activities that impact on the environment. This book makes a valuable contribution in that regard. More unusually perhaps, it also sets out the key technological developments which are likely to help to resolve the problem of environmental degradation and in this way provides the reader with a sense of some of the practical issues which underpin environmental law and policy.

The main focus of this book is on national law as derived from and influenced by European and international sources. Laws relating to the



environment historically evolved and were administered by national jurisdictions but the global dimensions of atmospheric and oceanic pollution led to increased international regulation. Increased international co-operation has resulted in a large number of international instruments relating to the environment and the book refers to some of these, dealing with matters such as the protection of biodiversity, climate change, transboundary air pollution, biosafety (trade in genetically modified organisms) and trade in endangered species to name but a few.

It is not possible to cover in a book of this size all aspects of the environment and the book is necessarily selective in choosing those aspects of the pollution of land, water and air which are currently topical. The collection of writings include chapters on the development of environmental law, town and country planning (including environmental impact assessment), water pollution, air pollution (including climate change and energy efficiency), waste (including contaminated land), integrated prevention and pollution control and on the natural environment (including agricultural controls).

Concern for the environment can probably best be realised by making the goal of sustainable development a practical reality. The types of individual decisions which cumulatively determine how close we are to achieving sustainable development in practice are to a large extent subject to the laws described in this book. A number of the chapters examine the concept of sustainable development and the extent to which it is reflected in current law and policy. It emerges as the unifying theme underlying current thinking on the many different aspects of environmental protection. In this context, the twin approach of developing laws to regulate future activities which may lead to environmental degradation and developing technologies which help to remediate historical damage or which are cleaner and more energy-efficient is likely to be important. The format of the book reflects this, in that each chapter initially describes relevant policies and laws followed by the appropriate scientific and technological remedies. Thus, Chapter 5 considers developments in air pollution technology; Chapter 6, dealing with waste, discusses technical aspects of matters such as the reclamation of contaminated land and the design and construction of landfill facilities. Noise technology is considered in Chapter 7.

The precautionary principle has emerged as an important area of debate in relation to environmental decision making not least in relation to the release of genetically modified organisms, which is considered in Chapter 8 in the context of agricultural controls. Chapter 8 also looks more broadly at the way forward for agriculture including organic farming and the operation of agri-environment schemes.

Also of critical importance in delivering environmental protection and sustainable development are the mechanisms for ensuring that environmental standards are met: this book outlines the various enforcement mechanisms provided for as well as other ways in which the law facilitates the meeting of these standards such as the use of agri-environment schemes. In this regard, as Chapter 2 shows, mechanisms at the national level are complemented by those at the European level.

Another important development is the entry into force of the Human Rights Act 1998. As discussed in Chapter 2, where public authorities act in relation to the environment in ways that are incompatible with people's convention rights, the Act may provide a remedy. The full extent to which convention rights provide a basis for the protection of 'environmental rights' remains a matter for debate but the relevance of Art 8 (the right to respect for private and family life), in particular, is already clear from the case law of the European Court of Human Rights.

The book is written as a specialist text book for university students and introductory guide for practitioners. It is aimed at lawyers, civil engineers and the landed professions as well as those among the general public interested in environmental issues. It contains numerous footnotes and extensive bibliography for the reader to explore particular areas of interest in further detail.

I would have no hesitation in recommending this book as a clear and comprehensive guide to the environmental law that governs key sectors of policy. The great benefit of this book is the way in which it integrates reference to recent technological developments into an exposition of the law. As stated in Chapter 3: 'There needs to be an integration of sustainability into all levels of policy making.' This book will help equip the reader to assess how far environmental law has come and how far it still needs to go.

*Cherie Booth  
Matrix Chambers, London  
February 2001*

## PREFACE

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I have endeavoured in this book to describe the principles of environmental law and the germane scientific, technological and engineering remedies with as much precision, cohesiveness and system as the subject permits. I hope it is of sufficient detail and coverage to be of practical use to practitioners and students of law and the landed professions.

As editor, any shortcomings or criticisms are my responsibility, but any credit must rest with the co-authors; in particular, Debbie Legge for writing the law sections. I must also acknowledge the valuable contributions of Jim Parry (environmental impact assessment); Rob Jackson (water pollution); Jim Longworth (waste remediation); Pat Regan (buildings and the environment); and Fil Ruddock (air pollution and noise technology).

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## TABLE OF CASES

---

Alphacell Ltd v Woodward [1972] AC 824 .....	88
Bloomquist v Wapello County (1989) .....	176
Blue Circle Industries Plc v MOD [1998] 3 All ER 385 .....	119
Blyth v Birmingham Water Works Co [1856] 11 Exch 781 .....	27
Budd v Colchester BC (1999) The Times, 14 April .....	235
Bullock v Secretary of State for the Environment (1980) 40 P & CR 246 .....	259
Bushel v Secretary of State for the Environment [1981] AC 75 .....	31, 48
CBT Committee v FTA [1991] 3 WLR 828 .....	236
Cambridge Water Co v Eastern Counties Leather plc [1994] 2 AC 264 .....	28
City of London Corp v Bovis Construction Ltd [1992] 5 All ER 697 .....	238
Commission v Denmark (Danish Bottles case) [1988] ECR 4608 .....	194
Commission v Netherlands (Case C-3/96) [1999] WLR .....	256
Commission v UK (Case C-337/89) [1992] ECR I-6103 .....	85, 96
Commission v UK (Case C-56/90) [1993] ECR 4109 .....	92
Commission v UK (Case C-340/96) (1999) unreported, 22 April .....	86
DPP v Hutchinson [1990] 2 AC 783 .....	30
Dudley MBC v Henley Foundries Ltd [1999] Env LR 895 .....	227
Edwards v NBC (1949) unreported .....	175
Empress Car Co (Abertillery) Ltd v National Rivers Authority [1998] 1 All ER 481 .....	23, 88
Environment Agency v Milford Haven Port Authority, The Sea Empress [1999] 1 Lloyd's Rep 673; [2000] W Law 331173, CA (Crim Div) .....	21
Environment Agency v Shell (UK) [1990] W Law 40 .....	89
Foster v British Gas (Case C-188/89) [1990] ECR I-3133 .....	18
Francovich and Others v Italian State (Cases C-6/90 and C-9/90) [1991] ECR I-5357 .....	19
Franklin v Minister of Town and Country Planning [1948] AC 47 .....	48
Guerra and Others v Italy (116/1996/735/932) 4 BHRC 63 .....	34

## Environmental Law for the Built Environment

---

Hove BC and Adur DC v Appis [1995] JPL 868 .....	113
Hudnott v Campbell (1986) The Times, 27 June .....	262
Hunter v Canary Wharf [1997] 2 WLR 684 .....	24
John Young & Co v Bakier Distillery Co [1893] AC 691 .....	28
Johnson (B) & Co (Builders) Ltd v Minister of Health [1947] All ER 395 .....	44, 48
Kirklees MBC v Firled (1997) 96 LGR 151 .....	235
Lopez Ostra v Spain (1994) 20 ECHR 277 .....	34
Mayer Parry Recycling Ltd v EA (1998) unreported .....	184
McColl v Strathclyde RC [1984] JPL 351 .....	86
Maile v Wigan MBC (2000) 12(1) ELM 10 .....	33
Marshall v Southampton AHA (Case 152/84) [1986] ECR 723; [1986] 1 CMLR 688 .....	18
Merlin v BNFL [1990] 2 QB 557; [1990] 3 All ER 711 .....	119
Monsanto v Tilley and Others (1999) The Times, 30 November .....	265
National Rivers Authority v Yorkshire Water Services Ltd [1995] 1 AC 444 .....	88
Nederhoff and Zonen v Dijkgraaf en Hougheemraden van het Hoog-heem-raadscap Rijnland (Case C-232/97) (2000) 2 ELM 2000 12 .....	80
Newbury DC v Secretary of State for the Environment, Transport and the Regions [1981] AC 578 .....	43
Pioneer Aggregates (UK) Ltd v Secretary of State for the Environment [1985] 1 AC 132 .....	272
Powell and Raynor v UK [1990] ECHR (Ser A) 172 .....	34
R v Carrick DC ex p Shelley (1997) unreported .....	25, 97
R v Dovermoss Ltd [1995] Env LR 258 .....	88
R v Durham CC and Sherburn Stone Co Ltd ex p Huddleston (1999) unreported .....	53
R v Environment Agency ex p Glosan Laom Seller (No 2) [1999] 2 Env LR 73 .....	227
R v Exeter CC [1991] QB 471 .....	60

## Table of Cases

---

R v Falmouth and Truro Port HA ex p South West Water Ltd [2000] 1 WLR 331; [1999] Env LR 833 .....	26, 97
R v Hertfordshire CC ex p Green Environmental Industries and Another (2000) unreported .....	186
R v HMIP ex p Greenpeace [1994] 4 All ER 329; [1994] 2 CMLR 548 .....	31, 117
R v London Borough of Greenwich (1996) 355 ENDS Rep 49 .....	236
R v Kennet DC ex p Somerfield Pty Co Ltd and Somerfield Stores [1999] JPL 361 .....	235
R v North Somerset DC and Pioneer Aggregates (UK) Ltd ex p Garnett [1998] Env LR 91; [1997] JPL 1015 .....	31
R v North Yorkshire CC ex p Brown [1999] 2 WLR 452; [1997] Env LR 391 .....	19, 53, 271
R v Northumbrian Water ex p Newcastle and North Tyneside HA (1998) unreported, QBD .....	86
R v Oxfordshire CC ex p Sunningwell PC [1999] The Times, 25 June, HL .....	277
R v Poole BC ex p BeeBee and Others [1991] JPL 643 .....	52
R v Rochdale MBC ex p Tew [1999] ELB (July) 12 .....	51
R v Secretary of State and Midland Expressway (MEL) ex p Alliance Against Birmingham Relief Road [1998] New Prop Cas 129 .....	302
R v Secretary of State for Foreign and Commonwealth Affairs ex p World Development Movement Ltd [1995] 1 WLR 586 .....	31
R v Secretary of State for the Environment ex p Equal Opportunities Commission [1995] 1 AC 1 .....	31
R v Secretary of State for the Environment ex p Friends of the Earth (1999) Env B, 23 September .....	266
R v Secretary of State for the Environment ex p Friends of the Earth and Another [1996] Env LR 198 .....	31
R v Secretary of State for the Environment ex p Rose Theatre Trust Co [1990] 1 QB 504 .....	31
R v Secretary of State for the Environment ex p RSPB (Case C-44/95) [1997] QB 206; [1997] Env LR 431 .....	31, 256
R v Secretary of State for the Environment ex p Watson [1998] EGCS 122, CA .....	266
R v Secretary of State for the Environment, Transport and the Regions and Another ex p Standley and Others (Case C-293/97) [1999] 268 ENDS Rep 47 .....	96

R v Secretary of State for the Environment, Transport and the Regions ex p Premiere Environment Ltd [2000] W Law 404; (2000) 9(4) ELM 10 .....	185, 193
R v Secretary of State for Trade and Industry ex p Duddridge [1995] 7 JEL 224 .....	10
R v Smith [1999] Env LR 433 .....	193
R v Somerset CC and ARC Southern Ltd ex p Dixon (1998) 75 P & CR 175 .....	31
R v Swale BC ex p RSPB [1991] 1 PLR 6 .....	53
R v West Dorset DC ex p Searle [1999] JPL 331 .....	54
Robinson v Kilvert (1884) 41 Ch D 88 .....	24
Rowley v Murphy [1964] 2 QB 43; [1964] 1 All ER 50; [1963] 3 WLR 1061 .....	261
Ryeford Homes Ltd and Another v Fever Oaks DC and Others (1990) JPL 36 .....	28
Rylands v Fletcher (1865) 3 H & C 774 .....	28
SFI Group (Formerly Surrey Free Inns plc) v Gosport BC; R v Knightsbridge CC ex p Cataldi (1999) The Times, 5 April .....	235
Sainsbury (J) plc v Secretary of State for the Environment [1993] JPEL 651 .....	40
Savage v Fairclough [2000] Env LR 183 .....	24
Save Britain's Heritage v Number 1 Poultry Limited [1991] WLR 153 .....	48
Scott Whitehead v NCB [1987] P & CR 263 .....	27
Secretary of State for the Environment v PG Edwards and Breckland DC [1994] JPL B110 .....	272
Shanks and McEwan (Teesside) Ltd v Environment Agency [1997] Env LR 305 .....	22, 189
Smeaton v Ilford Corp [1954] Ch 450 .....	25
Southern Water Authority v NCC [1992] 2 All ER 481 .....	254
Southwark LBC v Ince (1989) 21 HLR 504 .....	26
Sovereign Rubber Ltd v Stockport MBC [2000] ELM 27 .....	235
St Albans DC v Secretary of State for the Environment and Allied Breweries Ltd [1993] JPEL 374 .....	40
St Helens Co v Tipping (1865) 11 HL Cas 642 .....	107
Sturges v Bridgeman (1879) 11 Ch D 852 .....	25



## Table of Cases

---

Thomas v Countryside Commission for Wales (1993) 5 ELM 191, QB .....	256
Thomas Waste Management Ltd v Surrey CC [1997] Env LR 148 .....	185
Trust House Forte Hotels Ltd v Secretary of State for the Environment and Northavon DC [1986] JPL 834 .....	272
Twyford PC v Secretary of State for the Environment [1991] 3 LMELR 89; [1990] JEL 273 .....	19, 31, 53
Van Colsen and Kamann v Land Nordrhein-Westfalen (Case 14/83) [1984] ECR 1891; [1986] 2 CMLR 430 .....	18
Van Rooij v Dagelijks Bestuur van het Waterschap de Dommel (Case C-231/97) [2000] Env LR D16 .....	95
Walker v Northumberland CC [1995] 1 All ER 737 .....	176
Walter v Selfe [1851] 20 LJ Ch 189 .....	24
Welling BC v Gordon (1990) 155 JP 494 .....	27
World Wildlife Fund for Nature Ltd and RSPB v SOS [1997] 1(2) WLR 133 .....	256
Wychavon DC v National Rivers Authority [1993] 2 All ER 440 .....	89
Wychavon DC v Secretary of State for the Environment [1994] JEL 351 .....	19

# TABLE OF STATUTES

Agriculture Act 1947 .....	263	Control of Pollution	
s 98 .....	260	Act 1974 .....	5, 32, 64, 107, 81, 187, 236
Airports Act 1986—		Pt I .....	188
s 57 .....	128	Pt III .....	237
Alkali Act 1863 .....	107	ss 60, 61, 66(4) .....	237
Alkali Works Regulation		Control of Pollution	
Act 1906 .....	107	(Amendment) Act 1989 .....	186
Ancient Monuments and		Countryside Act 1968 .....	256
Archaeological Areas Act 1979 ....	49	ss 6–10 .....	256
Atomic Energy Act 1954 .....	115	s 11 .....	253
Atomic Energy Act 1989 .....	116	Countryside (Amenity and	
		Conservation) Bill 2000 .....	276, 277
Badgers Act 1992 .....	261		
ss 1, 3, 4 .....	261	Deer Act 1991 .....	261
Building Act 1984 .....	49, 87	Deposit of Poisonous Waste	
s 1 .....	50, 238	Act 1972 .....	5, 181
Sched 1 .....	87	Drought Act 1976 .....	81
Civil Amenities Act 1967 .....	49	Electricity Act 1989 .....	114
Civil Aviation Act 1982 .....	126, 236	ss 1, 3, 32 .....	114
ss 41, 44 .....	128	s 33 .....	114, 114
Clean Air Act 1956 .....	4, 15, 107	Sched 7 .....	114
Clean Air Act 1993 .....	107, 134, 185	Enclosure Act 1857—	
ss 1, 2, 14, 18, 43, 44 .....	134	s 12 .....	278
Coal Industry Act 1994 .....	271		
s 53 .....	271	Energy Conservation	
Coal Mining Subsidence		Act 1996 .....	111, 200
Act 1991 .....	271	s 15 .....	111
Commons Act 1867 .....	278	Environment Act 1995 .....	5, 14–16, 20, 21, 30, 32, 33, 82, 83, 84, 87, 89, 91, 94, 96, 125, 182–84, 191, 192, 227, 250, 271, 272
Competition Act 1998 .....	78	Pt III .....	253
Competition and Utilities		Pt IV .....	134, 135
Service Act 1991 .....	78	s 4 .....	14
Congenital Disabilities		s 4(1) .....	60
Act 1976 .....	120	s 5 .....	14
Conservation of Seals		s 6 .....	81
Act 1970 .....	260	s 22 .....	95
Conservation of Wild Creatures			
and Wild Plants Act 1975 .....	260		
ss 9, 10 .....	260		

Environment Act 1995 (Contd)—

s 39 .....	14
ss 41, 42 .....	89
ss 51–52 .....	32, 33
s 58 .....	88
s 60 .....	96
s 64(2)(a) .....	33
s 69 .....	88
s 82 .....	134
ss 90(6), 92 .....	230
ss 93–95 .....	200
ss 93, 94 .....	196
s 97 .....	259
s 108 .....	14
ss 110–12 .....	21
s 113 .....	32, 33
s 130(7) .....	87, 89
s 191(a), (b) .....	32
Sched 10 .....	89
Sched 22 .....	32, 81

Environmental Protection

Act 1990 .....	5, 25, 26, 30, 78, 88, 136, 137, 185, 187, 201, 227, 228, 237
Pt I .....	22, 136, 228, 229, 231, 232
Pt II .....	182–84, 187, 188, 192, 228, 232
Pt IIA .....	118
Pt III .....	137, 234
s 2 .....	188
s 3(5) .....	136
s 7 .....	229
ss 20–22 .....	32, 136
s 22 .....	230
s 26 .....	21
s 31 .....	131
s 33 .....	22, 131
s 33(1) .....	188

Environmental Protection

Act 1990 (Contd)—

s 33(1)(c) .....	185
s 33(6) .....	189
s 33(7) .....	22
s 33(7)(a) .....	186
s 34 .....	131
ss 35, 35A .....	186
s 36 .....	186, 187
s 43 .....	187
s 44a .....	200
s 49 .....	201
s 50 .....	189
s 59 .....	186
s 63 .....	185
s 64 .....	33, 187
s 71(2) .....	186
s 75 .....	184
s 78 .....	33
s 78A(2) .....	190
s 79 .....	25, 137
s 79(1) .....	26
s 79(1)(a) .....	26
s 79(1)(b) .....	26, 137
s 79(1)(e), (f) .....	26
s 79(1)(g) .....	26
s 80 .....	26, 138
ss 80(5), (6), .....	27
s 81(5) .....	27
s 82 .....	27, 138, 235, 237
s 124 .....	266
s 137 .....	21
s 143 .....	190, 192
s 145 .....	89, 230
s 157 .....	189
s 217 .....	230

Environmental Protection Act 1995—

ss 108, 109 .....	21
-------------------	----