

The Substantive Law of the EEC

D. Wyatt and A. Dashwood

Second

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The Substantive Law of the EEC

by

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LONDON
SWEET & MAXWELL
1987

*First Edition 1980
Second Impression 1981
Third Impression 1986
Second Edition 1987*

*Published in 1987 by
Sweet & Maxwell Ltd. of
11, New Fetter Lane, London
Computerset by Promenade Graphics Ltd., Cheltenham
Printed in Great Britain by
Richard Clay Ltd,
Bungay, Suffolk*

ISBN Hardback 0 421 34870 4
Paperback 0 421 34880 1

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1987

THE SUBSTANTIVE LAW OF THE EEC

AUSTRALIA AND NEW ZEALAND

The Law Book Company Ltd.
Sydney : Melbourne : Perth

CANADA AND U.S.A.

The Carswell Company Ltd.
Agincourt, Ontario

INDIA

N.M. Tripathi Private Ltd.
Bombay

and

Eastern Law House Private Ltd.
Calcutta and Delhi
M.P.P. House
Bangalore

ISRAEL

Steimatzky's Agency Ltd.
Jerusalem : Tel-Aviv : Haifa

MALAYSIA : SINGAPORE : BRUNEI

Malayan Law Journal (Pte.) Ltd.
Singapore and Kuala Lumpur

PREFACE

In our Preface to the first edition of this work, we noted that institutional and jurisdictional matters had loomed rather larger than substantive law in the legal literature on the European Communities then available in English and declared that we had attempted to produce a book in which that emphasis was reversed. Eight years on, with the appearance of a number of text books and monographs, dedicated to the substantive law of the European Communities, the approach seems much more conventional. However, at the risk of exchanging the mantle of the avant garde for that of the conventionally wise, we offer our readers a second edition essentially identical in conception to the original one.

Our book is aimed first and foremost at students pursuing a degree course in European Community law which contains a major element of substantive law. Thus the emphasis remains on the "core" subjects of such courses, namely the free movement of goods, persons and services, the common agricultural policy, competition and intellectual property. At the same time, we are hopeful (encouraged by the occasional sight of our first edition at the elbow of counsel in the law courts) that the book will continue to be of use to legal practitioners, particularly when guidance is needed on the principles underlying the often intricate rules of the Community system.

A significant change is the addition of a chapter on "Sex Discrimination" which reflects the major developments in this field of law over recent years. The "Introduction to the Rules on Competition" has been amplified and the Chapter on "Restrictive Practices" and "Intellectual Property" have been completely rewritten. There is also now a separate chapter on the application of Article 85 and Article 86 by the Community and national authorities.

Since our book is concerned with substantive law, we include no treatment of institutional matters beyond an examination of the composition and procedure of the Court of Justice and an outline of its various heads of jurisdiction. This seemed necessary because the Court plays such a vital part in the development of the law both in direct actions and in the preliminary ruling procedure. As before, and for the same obvious reasons, what we describe as "the Community legal order" (comprising, *inter alia*, the supremacy of Community law, direct applicability, and the general principles of Community law) is covered in some detail. Compromises have been inevitable, within the constraints of a single volume intended to be of manageable size and reasonable price. Thus the chapters in the first edition on Article 177 EEC, and on the treaty-making powers of the Community, have given way to what we believe to be higher priorities. We have also adhered to our original decision to omit the free movement of capital, transport policy and the harmonisation of laws (including company law and products liability). We note that the body of Directives comprising "European company law" is

increasingly and inevitably being treated as an element of the domestic company law syllabus; and early signs are that “European products liability law” is moving in the same direction, towards incorporation in the tort syllabus.

As in our first edition, we have confined our attention to the EEC Treaty which from the breadth of its ambit dominates the field of European Community Law. The ECSC and Euratom Treaties are only referred to incidentally, by way of comparison or where their provisions cast light on those of the EEC Treaty.

The book was jointly planned but individually written. Derrick Wyatt wrote chapters 1 to 3 and 5 to 12. Alan Dashwood wrote chapters 4 and 13 to 19.

To the following we express warm thanks and appreciation: Philippa Watson, sometime Legal Secretary at the Court of Justice and official of the Commission’s Directorate General for Competition, for her comments on the chapter on the social security rights of migrants; Kathleen Lee of the Solicitor’s Office of the Department of Health and Social Security, who was kind enough to consider the same chapter in draft; D. Grant Lawrence of the Legal Service of the Commission who read the draft chapter on Agriculture and made helpful suggestions; Angus Murray of the Solicitor’s Office of the Ministry of Agriculture, Fisheries and Food who also read that chapter; Jonathan Faull of DG IV who was generous with advice on procedure in competition matters; Malcolm Ross of the Department of Law at the University of Leicester for his assistance with the chapters on “State Aids” and “Public Undertakings” and Fiona Cownie, also of Leicester, for hers with the chapter on “Restrictive Practices”; Joan Wyatt and Julie Dashwood for their work on the galley and page proofs which enabled us to meet a tight schedule in the run up to publication; and Barbara Goodman and Christine Driver for prodigious feats of typing. Our thanks go in addition to the colleagues and friends—too numerous to mention individually—who have given us advice and encouragement; and to our publishers but for whom this edition, like its predecessor, would never have seen the light.

Alan Dashwood is now an official of the Council of the European Communities but all views expressed in this book are purely personal.

*Derrick Wyatt
Alan Dashwood*

June 1987

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