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978-0-521-67540-6 - Cases and Materials on the English Legal System, Tenth Edition

Michael Zander

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Cases and Materials on the English Legal System

Combining materials from a wide variety of sources with Michael Zander's authoritative commentary, this book provides the tools with which an observer of the English legal system can discover how it functions, the problems it faces and the current reforms proposed.

The organisation of the trial courts, the problems of civil litigation, the balance between the citizen and state in criminal cases, the trial and appeal process including the basic rules of evidence, the jury, the cost and funding of legal proceedings and the present state of the legal profession are explored by the author drawing on a wealth of cases, reports of official and other bodies, parliamentary debates and the fruits of empirical research.

The tenth edition has been extensively revised with a mass of new material. Major developments since the ninth edition include: the Constitutional Reform Act 2005, new research on the effect of the Woolf reforms, the Criminal Procedure Rules 2005, significant changes to PACE and revised PACE Codes (January 2006), the Serious Organised Crime and Police Act 2005, the Prevention of Terrorism Act 2005 and the Terrorism Act 2006, new arrangements for the charging of suspects, the Disclosure Protocol 2006, the suspect's right to ask for an indication of sentence, general eligibility for jury service, the introduction of fixed fees for some categories of litigation, Lord Carter's Review of the procurement of legal aid (July 2006) and the 2006 consultation paper *Legal Aid: A Sustainable Future?*, the new system for appointing QCs, the Clementi Review of regulation of legal services (2004) and the Legal Services Bill (2006). There have also been a large number of new cases.

Michael Zander QC is Emeritus Professor of Law at the London School of Economics and Political Science. He was a member of the Runciman Royal Commission on Criminal Justice which reported in 1993. An established author and researcher, he is also a regular journalist, a frequent broadcaster on radio and television, and is recognised as the leading authority on the workings of the legal system.

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Christopher McCrudden (Lincoln College, Oxford)

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Tenth Edition

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Preface to the tenth edition

This book was first published thirty-five years ago. The fact that it is still around and seems to be worth continuing is gratifying.

There have been a few structural changes since the first edition. The chapter on the legal profession was added in the fourth edition. The chapter on enforcement of civil judgments was dropped in the seventh edition. The time has clearly come to add a chapter on the judges. I considered including it in this volume but decided, partly on grounds of the length of the book, that it would be better to introduce it into the next edition of the companion volume, *The Law Making Process*.

Probably the most important change between the first and this tenth edition is the different balance between excerpted material and the author's own text. The preface to the first edition said that the book did not attempt to replace standard descriptive texts – 'rather it attempts to supplement them by focusing through the basic texts on points where the legal system is under stress or is the subject of controversy'. It still is not a textbook but I would say that it could perfectly well serve instead of one. Gradually over the course of the successive editions a higher and higher proportion of the book has consisted of the author's own text.

There have been a great number of developments since the ninth edition – far too many to list here. Some of the main ones include the Constitutional Reform Act 2005, new research on the effect of the Woolf reforms, the White Paper on unifying the civil courts, the Criminal Procedure Rules 2005, significant changes to PACE and revised PACE Codes (January 2006), the Serious Organised Crime and Police Act 2005, the Prevention of Terrorism Act 2005 and the Terrorism Act 2006, new arrangements for the charging of suspects, the Disclosure Protocol 2006, the suspect's right to ask for an indication of sentence, general eligibility for jury service, the introduction of fixed fees for some categories of litigation, Lord Carter's Review of the procurement of legal aid (July 2006) and the 2006 consultation paper *Legal Aid: A Sustainable Future?*, the new system for appointing QCs, the Clementi Review of regulation of legal services (2004) culminating in the Legal Services Bill (2006). There have also been an extraordinary number of official Consultation papers and, of course, many important judicial decisions.

A minor but possibly useful change in this edition is the removal to footnotes of most of the references that were previously in the text. There was too much clutter on the page. There are also more headings to help the reader find his way.

But the essence of the book remains the same as it has been from the start – an exploration of the important issues involved in the operation of the legal system. The book aims to convey not just the current position but enough of the background to make sense of the developing story.

As always, the legal system is a moving target. Even since delivery of the manuscript to the publishers there have been a large number of important changes that had to be noted. The text is up to date to 1 February 2007. (On 27 February, the very last day on which the author dealt with corrections to the text, *The Times* carried the dramatic news that the Government was about to announce the splitting of the functions of the Home Office. Police, serious organised crime, counter-terrorism strategy, MI5, immigration and nationality, passports, drugs and antisocial behaviour would remain in the Home Office, which would be like a continental Ministry of the Interior. Prisons, probation, criminal justice policy, the Office for Criminal Justice, sentencing and victims would go to the Department for Constitutional Affairs which would effectively become a Ministry for Justice.)

I thank Julian Roskams, my excellent copy editor with whom I have worked for many years. I thank also the team at Cambridge University Press – Sinead Moloney, Stephanie Thelwell and above all Wendy Gater – for the efficient and courteous way they handled a difficult manuscript and what must have been for them a tiresome author who kept on coming along with further final amendments.

The first five editions of the book were published by Weidenfeld & Nicolson which launched the Law in Context series. The last four editions were published by Butterworths/LexisNexis which took it over from Weidenfelds. In 2003 Cambridge University Press took over from LexisNexis. This is therefore the first edition of the book to be published by Cambridge.

In 1972, this was the fourth book to be published in the Law in Context series. There are now 52. It seems appropriate to thank Robert Stevens and William Twining who started the whole thing off. I was present at the initial meeting they called to discuss the project. I doubt whether any of us imagined it would develop so impressively. Their vision deserves much commendation from the long list of their authors.

MZ

February 2007, London

Preface to the first edition

This book is concerned with dispute settlement in courts and tribunals in England and Wales. The aim is to make available a selection of materials which reveal the actual workings of the system, its problems and difficulties, and which suggest ways in which it might be improved. The emphasis is contemporary and critical. The materials selected come from a wide variety of sources. Some, of course, are drawn from conventional legal sources – statutes and judicial decisions. But many more are taken from articles, official reports, books and surveys. Wherever possible they draw on empirical work, though there are still far too many areas of concern where no empirical investigation has yet been undertaken. The work is intended mainly as a source-book for those taking courses on the English legal system for a law degree or an equivalent course for a degree in some other subject. My intention is not merely to make a collection of scattered sources conveniently accessible, but also to stimulate constructively critical thought about the subject. I also hope that anyone who wishes to learn about the actual operation of the legal system or who is interested in its reform will find it useful.

The book does not attempt to cover all topics that are sometimes included in legal system courses, such as the sources of law, the legal profession, the machinery of law reform and sentencing. Excellent works on each of these topics are readily available, and it would not have been possible to do justice to these subjects within short compass. Nor does this book attempt to replace standard descriptive texts. Rather it attempts to supplement them by focusing through the basic texts on points where the legal system is under stress or is the subject of controversy. The aim is to give a better understanding of the reality of the law in action.

Michael Zander

July 1972, London

Acknowledgements

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