



Sixteenth Edition

# Constitutional & Administrative Law

A W Bradley, K D Ewing  
& C J S Knight

# **CONSTITUTIONAL AND ADMINISTRATIVE LAW**

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# CONSTITUTIONAL AND ADMINISTRATIVE LAW

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Sixteenth edition

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# BRIEF CONTENTS

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<i>Preface</i>	xiii
<i>Table of legislation</i>	xv
<i>Table of cases</i>	xxix
<i>Abbreviations</i>	lxvii

## **PART I**

---

<b>Sources, structure and principles</b>	<b>1</b>
<b>1</b> Constitutional law – its meaning and sources	3
<b>2</b> The structure of the United Kingdom	30
<b>3</b> Parliamentary supremacy	45
<b>4</b> The rule of law	75
<b>5</b> Responsible and accountable government	95
<b>6</b> United Kingdom and the European Union	111

## **PART II**

---

<b>The institutions of government</b>	<b>145</b>
<b>7</b> Composition of Parliament	147
<b>8</b> Role of Parliament	185
<b>9</b> Privileges of Parliament	217
<b>10</b> The Crown and royal prerogative	237
<b>11</b> Cabinet, government departments and civil service	269
<b>12</b> Public bodies and public appointments	300
<b>13</b> Courts and the administration of justice	322

## **PART III**

---

<b>Personal liberty and human rights</b>	<b>355</b>
<b>14</b> Human Rights Act	357
<b>15</b> Right to liberty and police powers	388
<b>16</b> Right to privacy and surveillance powers	418
<b>17</b> Right to freedom of expression	448
<b>18</b> Freedom of association and assembly	478
<b>19</b> State security and official secrets	507
<b>20</b> Special and emergency powers	537

## **PART IV**

---

<b>Administrative law</b>	567
<b>21</b> What is administrative law?	569
<b>22</b> Delegated legislation	581
<b>23</b> Administrative justice	600
<b>24</b> Judicial review I: the grounds of review	629
<b>25</b> Judicial review II: procedure and remedies	668
<b>26</b> Liability of public authorities	695
<i>Bibliography</i>	731
<i>Index</i>	739

# CONTENTS

---

<i>Preface</i>	xiii
<i>Table of legislation</i>	xv
<i>Table of cases</i>	xxix
<i>Abbreviations</i>	lxvii

## **PART I**

---

<b>Sources, structure and principles</b>	<b>1</b>
<b>1 Constitutional law – its meaning and sources</b>	<b>3</b>
A. Constitutional law – its meaning and scope	3
B. The formal sources of constitutional law	11
C. Other rules and principles, including constitutional conventions	18
<b>2 The structure of the United Kingdom</b>	<b>30</b>
A. The historic structure	30
B. Devolution of government	36
<b>3 Parliamentary supremacy</b>	<b>45</b>
A. The growth of the legislative authority of Parliament	45
B. Meaning of legislative supremacy	49
C. The continuing nature of parliamentary supremacy	55
D. The Treaty of Union between England and Scotland	69
E. Conclusions	72
<b>4 The rule of law</b>	<b>75</b>
A. Historical development	77
B. The rule of law and its implications today	81
C. The separation of powers	88
<b>5 Responsible and accountable government</b>	<b>95</b>
A. The background	95
B. Collective responsibility	98
C. Individual responsibility of ministers	101
<b>6 United Kingdom and the European Union</b>	<b>111</b>
A. European Union institutions	112
B. European Union law	119
C. EU law and British constitutional law	129
D. Response of the courts	133
E. European Union Act 2011: sovereignty revisited	139
F. Conclusion	143



## PART II

---

The institutions of government	145
<b>7 Composition of Parliament</b>	<b>147</b>
A. The electoral system	147
B. Distribution of constituencies	151
C. Political parties	155
D. The conduct of elections	159
E. Supervision of elections	163
F. Electoral systems and electoral reform	168
G. Membership of the House of Commons	172
H. The House of Lords	176
I. Membership of the House of Lords	180
J. Conclusion	184
<b>8 Role of Parliament</b>	<b>185</b>
A. The functions of Parliament	185
B. Authorising expenditure and providing income	186
C. Enacting legislation – House of Commons procedure	194
D. Enacting legislation – House of Lords and after	201
E. Scrutiny of the administration	208
F. Conclusion	215
<b>9 Privileges of Parliament</b>	<b>217</b>
A. House of Commons	217
B. Financial interests and payment of members	229
C. House of Lords	235
<b>10 The Crown and royal prerogative</b>	<b>237</b>
A. The monarchy	237
B. Personal prerogatives of the monarch	242
C. The Queen in Council	248
D. The royal prerogative	250
E. The royal prerogative and the courts	259
F. Conclusion	267
<b>11 Cabinet, government departments and civil service</b>	<b>269</b>
A. The Prime Minister	270
B. The Cabinet	273
C. Ministers and departments	278
D. Civil service: organisation and accountability	282
E. Civil service: ethics and standards	288
F. Open government and freedom of information	293
G. Conclusion	299
<b>12 Public bodies and public appointments</b>	<b>300</b>
A. Evolution	301
B. Categories of public body	303

C. Status, functions and powers	307
D. Appointments to public bodies	311
E. Legality and accountability	315
F. Reform	318
G. Conclusion	321
<b>13 Courts and the administration of justice</b>	<b>322</b>
A. Judiciary and judicial appointments	322
B. Independence of the judiciary	327
C. Administration of justice and contempt of court	332
D. The executive and the machinery of justice	342
E. Prosecution of offenders and miscarriages of justice	347
F. Conclusion	352
<b>PART III</b>	
<hr/>	
<b>Personal liberty and human rights</b>	<b>355</b>
<b>14 Human Rights Act</b>	<b>357</b>
A. The classical approach	357
B. European Convention on Human Rights	359
C. The Human Rights Act 1998	370
D. Enhanced Parliamentary scrutiny	383
E. Conclusion	385
<b>15 Right to liberty and police powers</b>	<b>388</b>
A. Police powers short of arrest	389
B. Police powers of arrest	390
C. Detention and questioning of suspects	395
D. Police powers of entry, search and seizure	399
E. Remedies for abuse of police powers	406
F. Accountability and control of the police	412
G. Conclusion	416
<b>16 Right to privacy and surveillance powers</b>	<b>418</b>
A. The case for protection	419
B. Surveillance: acquiring information	420
C. Interception of communications	425
D. Storing and processing information	431
E. Police databases	438
F. Privacy and the press	442
G. Conclusion	446
<b>17 Right to freedom of expression</b>	<b>448</b>
A. The nature of legal protection	448
B. Prior restraint: censorship and ownership	450
C. Regulation of television and radio	453
D. Offences against public order	458

E. Obscene publications	462
F. Defamation	466
G. Breach of confidence	473
H. Conclusion	477
<b>18 Freedom of association and assembly</b>	<b>478</b>
A. Freedom of association	478
B. The right of public meeting	480
C. Public processions and assemblies	482
D. Freedom of assembly and private property rights	485
E. Public order offences	490
F. Preventive powers of the police	500
G. Freedom of assembly and the Human Rights Act 1998	504
<b>19 State security and official secrets</b>	<b>507</b>
A. Security and intelligence	507
B. Security and intelligence services	509
C. Legal framework of security and intelligence services	513
D. Protection for state secrets and national security	520
E. Political scrutiny	532
F. Conclusion	536
<b>20 Special and emergency powers</b>	<b>537</b>
A. Use of troops in assisting the police	537
B. Legislative responses to terrorism – what is terrorism?	542
C. Legislative responses to terrorism – terrorist investigations, police powers and terrorist offences	547
D. Legislative responses to terrorism – detention without trial, control orders, TPIMs and secret justice	552
E. Emergency powers	558
F. Martial law	561
G. Conclusion	565
<b>PART IV</b>	
.....	
<b>Administrative law</b>	<b>567</b>
<b>21 What is administrative law?</b>	<b>569</b>
A. The functions and development of administrative law	569
B. Law and the administrative process	574
C. Conclusion	580
<b>22 Delegated legislation</b>	<b>581</b>
A. The need for delegated legislation	581
B. Types of delegated legislation	584
C. Control and supervision by Parliament	588
D. Challenge in the courts	593

E. Administrative rule-making	597
F. Conclusion	599
<b>23 Administrative justice</b>	<b>600</b>
A. Tribunals	601
B. Public inquiries	607
C. The Inquiries Act 2005	613
D. Ombudsmen	617
E. Conclusion	627
<b>24 Judicial review I: the grounds of review</b>	<b>629</b>
A. Judicial review on substantive grounds	631
B. Legitimate expectations	650
C. Review on procedural grounds	654
D. Conclusion	667
<b>25 Judicial review II: procedure and remedies</b>	<b>668</b>
A. The judicial review procedure	668
B. The extent of judicial review	674
C. The limitation and exclusion of judicial review	679
D. Remedies and relief	683
E. Conclusion	694
<b>26 Liability of public authorities</b>	<b>695</b>
A. Liability of public authorities and the Crown in tort	696
B. Contractual liability	713
C. Restitution and public authorities	719
D. The Crown in litigation: privileges and immunities	720
E. Conclusion	729
<i>Bibliography</i>	731
<i>Index</i>	739



# PREFACE

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The inconclusive outcome of the general election in May 2010 became known at a time when the previous edition of this book was in production. The election led to the formation of the first Coalition government since the Second World War. But any thoughts that the new government might slow the pace on constitutional matters were soon laid to rest, with the Coalition's programme for government announcing the need for 'fundamental political reform'.

In the event, not all of the proposed reforms were implemented, with major initiatives for House of Lords reform, a smaller House of Commons and a new voting system being lost or defeated, though for different reasons. But other developments have taken place since 2010, some of the most notable relating to the United Kingdom's relationship with Europe.

The dark clouds on the cover of this book may thus be symbolic of present uncertainty. Not only is the constitution in constant flux, but it appears also to be in the eye of more than one political storm. Britain's relationship with Europe is clearly one such storm: so too is the very structure of the United Kingdom in the light of the referendum on Scottish independence in September 2014.

Whatever happens in that referendum, it is likely to presage yet more constitutional adjustment. In addition, the general election in May 2015 may have a decisive impact on the legal protection of human rights, a matter on which influential voices in the Coalition parties appear to be deeply divided.

Developments since 2010 have consequently required major revisions to be made to this book. We have also taken the opportunity in this edition to make some more radical changes, partly to reduce the length of the book and partly as the discipline develops, to reflect the evolving interests of teachers and students of public law.

As a result, the treatment of some topics has been reduced, while the treatment of others has been expanded, and there has been some reorganisation of material within a reduced number of chapters. Our most difficult decision, which we took only after consulting widely, was to discontinue the coverage of certain topics. We have noted that some issues (such as military law, on the one hand, and immigration law, on the other) are increasingly complex and covered by voluminous specialist texts.

In these areas, however, we have, where possible, retained a discussion of some of the leading cases which often illuminate other areas of the law. So although – for example – we have not included the chapter on military law in this edition, some important cases in the field are concerned with the territorial application of the Human Rights Act, and are dealt with there. One direct result is that Part II, which in previous editions dealt with both the institutions of government, as well as several of the activities of government, is now concerned almost exclusively with the former.

Numerous developments since 2010 are covered in this edition. They include the European Union Act 2011, designed to give more parliamentary and popular control over decisions affecting the European Union, and the Fixed-term Parliaments Act 2011, which removed a significant Prime Ministerial power by declaring the date of the next general election and those thereafter.

An expanded chapter on human rights considers more fully the current debate around the European Convention on Human Rights and the Human Rights Act, as well as examining the evolving relationship between the Strasbourg court and the UK Supreme Court, the latter now fully established since 2009.

Other changes relate to financing the monarchy and the rules of succession; the creation of the National Crime Agency and the introduction of police and crime commissioners; the controversy about the right to privacy as a result of both intrusive journalism, and equally intrusive police methods; and the Protection of Freedoms Act 2012.

In this edition, we are pleased to welcome a third author, Christopher Knight. Now practising as a barrister in public law at 11 King's Bench Walk, London, Christopher has published widely in administrative law. While the three of us have joint responsibility for the whole book, AWB has revised chapters 1–5 and 9; KDE has revised chapters 6–8 and 10–20, and CJK has revised chapters 21–6.

Case references are, where possible, to the main law reports, failing which to WLR or All ER, failing which the more specialist law reports. For cases since 2001, the footnotes include the neutral case citation which enables cases to be read online on the website of the British and Irish Legal Information Institute (BAILII). The latter is a remarkable and important resource, much taken for granted.

We emphasise again that the bibliography is not a complete list of books in public law. It is a list of books cited, designed to enable the reader to follow up any discussion in the text. It does not include entries for the many journal articles cited, nor for official publications in the form of royal commission and select committee reports; though the latter, in particular, are invaluable sources that may be consulted on [www.parliament.uk](http://www.parliament.uk).

In preparing this addition, we have benefited from the advice of many friends and colleagues, including Andrea Biondi, Nicola Countouris, Chris Himsworth, Richard Kay, Alastair Mowbray, and Cesare Pinelli. We have enjoyed the benefits of the Maugham Library at King's College London, the Bodleian Library, Oxford, the Squire Law Library, Cambridge, and the Inner Temple Library, London.

We express our thanks to Pearson Education, in particular to Owen Knight and Carole Drummond, for their guidance and support in bringing this edition to publication. We also must thank Robert Chaundy, the copy-editor, Sue Gard, the proofreader, Mike Smith, who prepared the tables, and Doreen Magowan, who prepared the index.

**Anthony Bradley**  
**Keith Ewing**  
**Christopher Knight**  
16 June 2014

Tony Bradley has been an author or co-author of what are now ten editions of this book, spanning a period of 50 years, a remarkable achievement that should not pass unrecognised. Tony has, however, said that this will be the last occasion in which he will have a role as co-author.

I would like to take this opportunity to express my gratitude to Tony for having invited me to join him as co-author in 1989, and to express my deep appreciation for his guidance and support throughout. Tony taught me Constitutional and Administrative Law at Edinburgh University in 1972; like very many others, I am still learning from him.

**KDE**

# TABLE OF LEGISLATION

---

Note The page numbers of the main legislative provisions and primary discussions are indicated in **bold**.

## United Kingdom Statutes

Access to Health Records Act 1990 .....	293, 431
Access to Medical Reports Act 1988 .....	293
Access to Personal Files Act 1987.....	293
Acquisition of Land Act 1981 .....	679–80
Acquisition of Land (Assessment of Compensation) Act 1919 .....	56
Act of Settlement 1700 .....	13–14, 48, 52, 58, 93, 96, 172, 173, 180, 238, 328, 329
Act of Union 1536 (Wales) .....	31
Acts of Parliament (Commencement) Act 1793 .....	208
Administration of Justice (Miscellaneous Provisions) Act 1933 .....	685
Administration of Justice (Miscellaneous Provisions) Act 1938 .....	685
Agriculture Act 1947 .....	103
Agricultural Marketing Act 1958 .....	636
Aliens Restriction (Amendment) Act 1919 .....	459
Anglo-German Agreement Act 1890 .....	57
Anti-Social Behaviour Act 2003 .....	483, 489
Anti-Terrorism, Crime and Security Act 2001 .....	77, 367, 396, 495, 543, 547–8, 552, 555
Appellate Jurisdiction Act 1876 .....	176, 177, 180, 182, 325
Armed Forces Act 1996 .....	719
Armed Forces Act 2006 .....	256, 539, 562
Asylum and Immigration Appeals Act 1993 .....	265, 633
Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 .....	374
Atomic Energy Authority Act 1995.....	303
Atomic Energy (Miscellaneous Provisions) Act 1981 .....	303
Audit Commission Act 1998 .....	306
Bank of England Act 1998 .....	308–9
Banking Act 2009 .....	697
Banking (Special Provisions) Act 2008 .....	201
Betting, Gaming and Lotteries Act 1963 .....	415
Bill of Rights 1689 .....	12–13, 14, 47, 48, 51, 61, 68, 78, 186, 219–21, 223, 231, 234, 252, 256, 258, 349, 470
Bishoprics Act 1878 .....	178
Boundary Commissions Act 1992 .....	152
Bribery Act 2010 .....	289
British Nationality Act 1948 .....	238, 583
British Nationality Act 1981.....	14, 30, 31, 148, 172
British Telecommunications Act 1981 .....	303, 700
Broadcasting Act 1990 .....	222, 454, 463, 467
Broadcasting Act 1996 .....	454–457
Budget Responsibility and National Audit Act 2011 .....	300, 307
Canada Act 1982 .....	6, 58
Ceylon Independence Act 1947 .....	57



Channel Tunnel Act 1987 .....	200
Chequers Estate Act 1917 .....	270
Chevening Estate Act 1959 .....	270
Children Act 1989 .....	636, 709
Children and Young Persons Act 1933 .....	332, 442
Cinemas Act 1985 .....	451
Cinematograph Act 1909 .....	451
Cinematograph Act 1952 .....	451
Civil Authorities (Special Powers) Act 1922 (Northern Ireland) .....	75, 542
Civil Aviation Act 1980 .....	303
Civil Contingencies Act 2004 .....	249, 259, 560–1, 583, 585
Civil List Act 1952 .....	239
Civil List Act 1972 .....	239
Civil Service (Management of Functions) Act 1992 .....	284
Civic Government (Scotland) Act 1982 .....	482, 483
Claim of Right 1689 (Scotland) .....	12–13, 48, 329
Coal Industry Act 1994 .....	303
Colonial Laws Validity Act 1865 .....	63–4
Commissioner for Complaints Act 1969 (Northern Ireland) .....	626
Commissioner for Older People (Wales) Act 2006 .....	41
Commissioners for Revenue and Customs Act 2005 .....	237
Communications Act 2003 .....	158, 162, 452, 454–5
Companies Act 2006 .....	306
Conspiracy and Protection of Property Act 1875 .....	485, 488
Constables' Protection Act 1750 .....	390, 408, 697
Constitutional Reform Act 2005 .....	14, 21, 23, 31, 48, 52, 70, 81, 93, 176, 177, 180, 270, 322, 323, 324–31, 343, 344, 627, 631, 685
Constitutional Reform and Governance Act 2010 .....	5, 14, 52, 54, 179, 234, 237, 253, 256, 268, 282, 283, 288, 293, 719
Contempt of Court Act 1981 .....	328, 331, 333–42, 349, 353, 365, 449, 507
Continental Shelf Act 1964 .....	54
Contingencies Fund Act 1974 .....	191
Conventicle Act 1670 .....	448
Copyright, Designs and Patents Act 1988 .....	259
Coroners and Justice Act 2009 .....	436, 466
Counter-Terrorism Act 2008 .....	399, 546, 548, 551, 595, 728
Court of Session Act 1988 .....	693
Courts Act 1971 .....	329
Courts Act 2003 .....	329, 344, 345
Courts and Legal Services Act 1990 .....	323, 620, 627
Crime and Courts Act 2013 .....	304, 308, 311, 322, 324, 325, 326, 342, 353, 453, 493
Crime and Disorder Act 1998 .....	495
Criminal Appeal Act 1968 .....	351
Criminal Appeal Act 1995 .....	254, 352
Criminal Cases Review (Insanity) Act 1999 .....	352
Criminal Damage Act 1971 .....	488
Criminal Evidence (Amendment) Act 1997 .....	397
Criminal Justice Act 1967 .....	333
Criminal Justice Act 1988 .....	54, 76, 337
Criminal Justice Act 1991 .....	714
Criminal Justice Act 2003 .....	218, 395, 403, 408, 548
Criminal Justice and Coroners Act 2009 .....	458

Criminal Justice and Court Services Act 2000 .....	422
Criminal Justice and Immigration Act 2008 .....	460
Criminal Justice and Licensing (Scotland) Act 2010 .....	499
Criminal Justice and Police Act 2001 .....	397, 406, 407, 498
Criminal Justice and Public Order Act 1994 .....	364, 389, 390, 397, 398, 399, 404, 463, 481, 484, 489, 493, 549, 675, 714
Criminal Law Act 1967 .....	172, 491, 539
Criminal Law Act 1977 .....	465, 488
Criminal Procedure (Insanity) Act 1964 .....	149
Criminal Procedure and Investigation Act 1996 .....	410
Crown Estate Act 1961 .....	239
Crown Proceedings Act 1947 .....	14, 66, 83, 96, 258, 263, 279, 282, 285, 304, 577, 671, 687, 695, 698–700, 703, 714, 716, 720–3, 729
Crown Proceedings (Armed Forces) Act 1987 .....	699
Customs and Excise Duties (General Reliefs) Act 1979 .....	584
Damages (Asbestos-related Conditions) (Scotland) Act 2009 .....	39
Data Protection Act 1984 .....	293, 432
Data Protection Act 1998 .....	293, 296, 309, 431–8, 449, 507
Declaratory Act 1720 .....	34
Defamation Act 1996 .....	13, 51, 220, 222, 223, 470, 472, 473
Defamation Act 2013 .....	467–73
Defence Act 1842 .....	262
Defence of the Realm (Amendment) Act 1915 .....	262, 558
Defence of the Realm (Consolidation) Act 1914 .....	262, 558
Defence (Transfer of Functions) Act 1964 .....	279
Deregulation and Contracting Out Act 1994 .....	714
Disability Discrimination Act 1995 .....	408, 665
Disqualifications Act 2000 .....	174
Ecclesiastical Commissioners Act 1847 .....	178
Education Act 1996 .....	638, 702
Education (No. 2) Act 1986 .....	481
Education Reform Act 1988 .....	675
Education (Scotland) Act 1973 .....	52
Electoral Administration Act 2006 .....	148, 151, 158, 172
Electoral Registration and Administration Act 2013 .....	150, 154, 155
Electricity Act 1989 .....	303
Emergency Powers Act 1920 .....	560, 583
Emergency Powers (Defence) Act 1939 .....	262, 559
Emergency Powers (Defence) (No. 2) Act 1940 .....	559
Employment Act 1982 .....	53
Employment Act 2008 .....	366, 479
Employment Protection (Consolidation) Act 1978 .....	66, 135
Employment Relations Act 1999 .....	520, 521, 719
Employment Rights Act 1996 .....	520, 718, 719
Employment Tribunals Act 1996 .....	283, 521, 728
Enemy Property Act 1953 .....	52
Enterprise Act 2002 .....	452, 606
Enterprise and Regulatory Reform Act 2013 .....	320
Equal Pay Act 1970 .....	133
Equality Act 2006 .....	305, 316
Equality Act 2010 .....	155, 313, 665, 666, 718, 719

European Communities Act 1972 .....	7, 49, 52, 64, 66, 67, 71, 89, 93, 111, 129, 130–8, 143, 196, 584–6, 590
European Elections Act 1999 .....	156
European Parliament (Representation) Act 2003 .....	116
European Parliamentary Elections Act 1999 .....	170
European Parliamentary Elections Act 2002 .....	115
European Union Act 2011 .....	7, 14, 67, 115, 127, 133, 139–44, 256
European Union (Accessions) Act 2003 .....	115
European Union (Amendment) Act 2008 .....	112
European Union (Approval of Treaty Amendment Decision) Act 2012 .....	141
European Union (Approvals) Act 2013 .....	142
European Union (Croatian Accession and Irish Protocol) Act 2013 .....	141
Excise Duties (Surcharges or Rebates) Act 1979 .....	584
Extradition Act 2003 .....	689
Fair Trading Act 1973 .....	452
Finance Act 2011 .....	192
Finance (No. 2) Act 1940 .....	594
Financial Services Act 1986 .....	624
Financial Services and Markets Act 2000 .....	297, 697
Firearms (Amendment) Act 1997 .....	13
Fixed-term Parliaments Act 2011 .....	52, 59, 188, 192, 245, 246–8, 268
Food Standards Act 1999 .....	304
Football (Offences) Act 1991 .....	495
Foreign Compensation Act 1950 .....	681
Foreign Compensation Act 1969 .....	681
Forfeiture Act 1870 .....	172, 180
Freedom of Information Act 2000 .....	103, 107, 208, 233, 275, 276, 281, 294–9, 309, 432, 449, 507, 586, 725
Freedom of Information (Scotland) Act 2002 .....	294
Gangmasters (Licensing) Act 2004 .....	301, 310, 311
Gas Act 1986 .....	303, 310, 315
Geneva Convention Act 1957 .....	53, 692
Government of Ireland Act 1914 .....	34, 204
Government of Ireland Act 1920 .....	6, 35, 58
Government of Wales Act 1998 .....	36, 40, 41, 170, 196
Government of Wales Act 2006 .....	40–2, 58, 110, 338, 586
Government Resources and Accounts Act 2000 .....	188
Greater London Authority Act 1999 .....	170, 480
Groceries Code Adjudicator Act 2013 .....	300
Habeas Corpus Act 1640 .....	80, 251, 558
Habeas Corpus Act 1679 .....	80, 558, 689, 692
Habeas Corpus Act 1816 .....	80, 558, 689, 690
Habeas Corpus Act 1862 .....	80, 558, 689
Health and Safety at Work etc Act 1974 .....	304, 305, 409, 586
Health and Social Care Act 2008 .....	311, 378, 579
Health Service Commissioners Act 1993 .....	625
Health Service Commissioners (Amendment) Act 1996 .....	625
Herring Fisheries (Scotland) Act 1889 .....	53
Higher Education Act 2004 .....	675
Highways Act 1980 .....	485, 487, 490, 496, 611

His Majesty's Declaration of Abdication Act 1936 .....	52, 58, 238
Hong Kong Act 1985 .....	255
Honours (Prevention of Abuses) Act 1925 .....	157–8, 257, 349
House of Commons (Administration) Act 1978 .....	233
House of Commons (Clergy Disqualification) Act 1801 .....	173
House of Commons Disqualification Act 1957 .....	173
House of Commons Disqualification Act 1975 .....	173–5
House of Commons (Redistribution of Seats) Act 1979 .....	35
House of Commons (Removal of Clergy Disqualification) Act 2001 .....	173
House of Lords Act 1999 .....	14, 52, 72, 149, 176, 178–83, 196, 201, 253
Housing Act 1930 .....	679
Human Rights Act 1998 .....	6, 7, 11, 14, 16–17, 41, 42, 51, 52, 54, 64, 67–8, 72, 82, 84, 90, 93, 128, 149, 163, 196, 220, 249, 255, 265–7, 295, 297, 299, 327, 328, 357, 363, 366, 367, 368, 370–87, 388, 412, 418, 419, 427, 443–46, 449–50, 454, 456, 457, 466, 475, 476, 478, 481, 483, 485, 490, 504–6, 514, 516, 529, 530, 542, 544, 545, 561, 565, 570, 571, 574, 577, 578, 579, 580, 607, 585, 586, 588, 592, 594, 631, 647–50, 656, 671, 673, 676, 682, 683, 688, 689, 696, 699, 708–10, 719, 729
Hunting Act 2004 .....	62, 205
Immigration Act 1971 .....	52, 255, 262, 285, 364, 588, 597, 635
Incitement to Disaffection Act 1934 .....	459
Incitement to Mutiny Act 1797 .....	459
Indemnity Act 1920 .....	52, 559, 564
Inquiries Act 2005 .....	329, 330, 608, 613, 615–16, 628
Insolvency Act 1986 .....	172, 180, 218
Intelligence Services Act 1994 .....	258, 429, 511, 512, 515, 516–20, 528, 532, 533, 535
Interception of Communications Act 1985 .....	330, 365, 425–6, 428–29, 515, 519, 528
International Development Act 2002 .....	575
Interpretation Act 1978 .....	30, 31, 60, 61, 208, 278, 588
Ireland Act 1949 .....	35, 65
Island of Rockall Act 1972 .....	52, 254
Judicial Committee Act 1833 .....	176, 249
Judicial Proceedings (Regulation of Reports) Act 1926 .....	332, 442
Judiciary and Courts (Scotland) Act 2008 .....	322, 324, 327, 329
Justice and Security Act 2013 .....	332, 507, 534, 728
Justice and Security (Northern Ireland) Act 2007 .....	540, 565
Kenya Independence Act 1963 .....	57
Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 .....	323
Laws in Wales Act 1535 .....	31
Laying of Documents before Parliament (Interpretation) Act 1948 .....	590
Legislative and Regulatory Reform Act 2006 .....	586, 587, 592
Life Peerages Act 1958 .....	176–8, 179, 180, 181, 184, 201, 253, 325
Local Democracy, Economic and Construction Act 2009 .....	479
Local Government Act 1972 .....	31, 633, 642, 687–8
Local Government Act 1973 .....	625
Local Government Act 1974 .....	625
Local Government Act 1999 .....	715
Local Government Finance Act 1988 .....	583
Local Government and Housing Act 1989 .....	479, 626

Local Government and Public Involvement in Health Act 2007 .....	625
Local Government etc. (Scotland) Act 1994 .....	491
Localism Act 2011 .....	579, 612, 627, 660
Magistrates' Courts Act 1980 .....	333, 390
Magna Carta 1215 .....	12, 77
Mental Capacity Act 2005 .....	148
Mental Health Act 1983 .....	149, 690, 697
Mental Health (Discrimination) Act 2013 .....	173
Merchant Shipping Act 1988 .....	66, 122, 135, 136, 695
Military Lands Act 1892 .....	488
Ministerial and other Pensions and Salaries Act 1991 .....	270
Ministerial and other Salaries Act 1975 .....	175, 176, 269, 280, 271, 274
Ministerial and other Salaries Act 1997 .....	175, 271
Ministers of the Crown Act 1964 .....	175
Ministers of the Crown Act 1974 .....	175
Ministers of the Crown Act 1975 .....	279
Miscellaneous Financial Provisions Act 1946 .....	191
Misuse of Drugs Act 1971 .....	389
National Audit Act 1983 .....	307
National Health Service and Community Care Act 1990 .....	308
National Health Service (Invalid Direction) Act 1980 .....	52
National Health Service Redress Act 2006 .....	40
National Insurance Act 1911 .....	601
National Loans Act 1968 .....	203
National Minimum Wage Act 1998 .....	310
New Ministries and Secretaries Act 1916 .....	279
Northern Ireland Act 1972 .....	52
Northern Ireland Act 1998 .....	36, 42–3, 58, 65, 170, 196
Northern Ireland Act 2006 .....	43
Northern Ireland Act 2009 .....	43
Northern Ireland Assembly Act 1973 .....	35
Northern Ireland Constitution Act 1973 .....	35, 65
Northern Ireland (Emergency Provisions) Act 1973 .....	542
Northern Ireland (Emergency Provisions) Act 1978 .....	542
Northern Ireland (Emergency Provisions) Act 1987 .....	542
Northern Ireland (Emergency Provisions) Act 1991 .....	542
Northern Ireland (Emergency Provisions) Act 1996 .....	542, 552
Northern Ireland (Miscellaneous Provisions) Act 2006 .....	43
Northern Ireland (St Andrews Agreement) Act 2007 .....	43
Obscene Publications Act 1857 .....	462, 463
Obscene Publications Act 1959 .....	450, 462–5, 466
Obscene Publications Act 1964 .....	462, 463
Occupiers' Liability Act 1984 .....	698
Official Secrets Act 1911 .....	105, 220, 248, 275, 276, 293, 332, 349, 474, 488, 523–7, 528, 529
Official Secrets Act 1920 .....	220, 248, 276, 474, 525, 526, 529
Official Secrets Act 1939 .....	220, 276, 474, 525, 526, 529
Official Secrets Act 1989 .....	218, 220, 248, 276, 293, 474, 525, 527–32, 535
Overseas Development and Cooperation Act 1980 .....	187

Parliament Act 1911 .....	5, 14, 25, 34, 52, 58, 61–3, 68–9, 147, 183, 192, 201–5, 245, 591, 682
Parliament Act 1949 .....	14, 52, 58, 61, 62, 68–9, 147, 153, 183, 201–5, 591
Parliamentary Commissioner Act 1967 .....	228, 276, 469, 507, 577, 618–25
Parliamentary Constituencies Act 1986 .....	152, 154
Parliamentary Oaths Act 1866 .....	228
Parliamentary Papers Act 1840 .....	222–3, 477
Parliamentary Privileges (Australia) Act 1987 .....	224
Parliamentary Standards Act 2009 .....	18, 234–5, 721
Parliamentary Voting System and Constituencies Act 2011 .....	154, 155, 171
Peerage Act 1963 .....	179, 180
Petition of Right 1628 .....	12, 251, 561, 689
Petitions of Right Act 1860 .....	715, 716
Planning Act 2008 .....	585, 612
Planning and Compulsory Purchase Act 2004 .....	610, 612, 679
Police Act 1919 .....	655
Police Act 1964 .....	260, 262
Police Act 1996 .....	310, 407, 413–14, 417, 438, 459, 479, 495, 498, 501, 698
Police Act 1997 .....	412, 421–3, 425, 440, 441
Police (Complaints and Conduct) Act 2012 .....	410
Police and Criminal Evidence Act 1984 .....	316, 331, 388, 389, 390–406, 410–12, 440, 501, 547, 548, 598
Police, Public Order and Criminal Justice (Scotland) Act 2006 .....	483
Police Reform Act 2002 .....	389, 400, 407, 409, 417, 698
Police Reform and Social Responsibility Act 2011 .....	410, 412–4, 480
Political Parties and Elections Act 2009 .....	148, 157, 167, 196
Political Parties, Elections and Referendums Act 2000 .....	40, 74, 148, 156–67, 196, 225, 270, 307, 588
Poor Law Amendment Act 1834 .....	301
Post Office Act 1953 .....	425
Post Office Act 1969 .....	700
Postal Services Act 2000 .....	425, 700
Postal Services Act 2011 .....	302
Prevention of Fraud (Investments) Act 1958 .....	624
Prevention of Terrorism Act 2005 .....	385, 553–5, 557
Prevention of Terrorism (Additional Powers) Act 1996 .....	549
Prevention of Terrorism (Temporary Provisions) Act 1974 .....	543
Prevention of Terrorism (Temporary Provisions) Act 1976 .....	543
Prevention of Terrorism (Temporary Provisions) Act 1984 .....	364, 365, 543
Prevention of Terrorism (Temporary Provisions) Act 1989 .....	543, 549
Princess Sophia Naturalization Act 1705 .....	238
Private Legislation Procedure (Scotland) Act 1936 .....	200
Promissory Oaths Act 1868 .....	343
Prosecution of Offences Act 1985 .....	347, 348
Protection from Harassment Act 1997 .....	486, 497, 505
Protection of Freedoms Act 2012 .....	295, 420, 421, 423, 436, 438–41, 497, 549, 550
Provisional Collection of Taxes Act 1968 .....	22, 192
Public Bodies Act 2011 .....	300, 317, 318–21, 587, 607
Public Health Act 1875 .....	697
Public Interest Disclosure Act 1998 .....	449, 520
Public Order Act 1936 .....	349, 479, 482–4, 493–5, 545
Public Order Act 1986 .....	451, 460, 482–5, 490–5, 497
Public Services Ombudsman (Wales) Act 2005 .....	41, 626

Race Relations Act 1965 .....	460
Race Relations Act 1976 .....	460, 645, 665
Racial and Religious Hatred Act 2006 .....	460
Railways Act 1993 .....	303
Referendum Act 1975 .....	111
Referendums (Scotland and Wales) Act 1997 .....	37
Reform Act 1832 .....	5, 58, 147, 151
Regency Acts 1937–53 .....	19, 61, 62
Regional Assemblies (Preparations) Act 2003 .....	49
Regional Development Agencies Act 1998 .....	43
Registration of Political Parties Act 1998 .....	156
Regulation of Investigatory Powers Act 2000 .....	270, 330, 365, 421–31, 437, 438, 442, 512, 514, 515–16, 528, 532, 606, 682, 728
Regulation of Investigatory Powers (Scotland) Act 2000 .....	422, 425
Regulatory Reform Act 2001 .....	626
Representation of the People Act 1832 .....	147
Representation of the People Act 1867 .....	147
Representation of the People Act 1884 .....	147
Representation of the People Act 1918 .....	147, 169, 171
Representation of the People Act 1948 .....	147, 169
Representation of the People Act 1969 .....	147
Representation of the People Act 1981 .....	172, 219
Representation of the People Act 1983 .....	115, 148–50, 158, 160–7, 172, 481
Representation of the People Act 1985 .....	148
Representation of the People Act 2000 .....	148, 150, 151, 196
Representation of the People (Equal Franchise) Act 1928 .....	147
Restoration of Order in Ireland Act 1920 .....	563
Riot Act 1714 .....	491
Riot (Damages) Act 1886 .....	491
Riotous Assemblies (Scotland) Act 1822 .....	491
Road Safety Act 1973 .....	284
Road Traffic Act 1988 .....	389, 390, 399
Road Traffic Regulation Act 1984 .....	721
Roads (Scotland) Act 1984 .....	257
Roman Catholic Relief Act 1829 .....	173
Royal Assent Act 1967 .....	19, 207
Royal Assent by Commission Act 1541 .....	207
Royal Titles Act 1953 .....	71
Scotland Act 1978 .....	37, 142
Scotland Act 1998 .....	14, 20, 36, 37–40, 52, 58, 61, 72, 153, 169, 196, 200, 244, 322, 329, 338, 586, 682, 722
Scotland Act 2012 .....	38, 40
Scottish Parliament (Constituencies) Act 2004 .....	37
Scottish Public Services Ombudsman Act 2002 .....	626
Scrap Metal Dealers Act 2013 .....	421
Security Service Act 1989 .....	421, 429, 431, 509, 514–16, 518, 519, 533
Security Service Act 1996 .....	514, 518
Seditious Meetings Act 1817 .....	491
Senior Courts Act 1981 (formerly entitled Supreme Court Act 1981) .....	48, 322, 323, 472, 669–72, 676, 679, 685, 688, 691, 719
Septennial Act 1715 .....	52

Serious Organised Crime and Police Act 2005 .....	397, 410, 489, 497, 498, 506
Sex Discrimination Act 1975 .....	138, 155, 665
Sex Discrimination (Election Candidates) Act 2002 .....	155
Sexual Offences Act 1967 .....	464
Sheriff Courts (Scotland) Act 1971 .....	329
Shipmoney Act 1640 .....	47
Social Security Administration Act 1992 .....	597
Southern Rhodesia Act 1965 .....	25, 591
Sovereign Grant Act 2011 .....	239
Special Immigration Appeals Commission Act 1997 .....	726
Statute Law Revision Act 1948 .....	31
Statute Law Revision Act 1953 .....	57
Statute of Proclamations 1539 .....	46
Statute of Westminster 1931 .....	57
Statutory Instruments Act 1946 .....	249, 576, 582, 587–8, 590, 593
Statutory Instruments (Production and Sale) Act 1996 .....	593
Statutory Orders (Special Procedure) Act 1945 .....	200
Statutory Orders (Special Procedure) Act 1965 .....	200
Succession to the Crown Act 1707 .....	173, 238
Sunday Closing (Wales) Act 1881 .....	31
Sunday Entertainments Act 1932 .....	643
Supply and Appropriation (Anticipation and Adjustments) Act 2013 .....	191
Supreme Court Act 1981 <i>see</i> Senior Courts Act 1981	
Telecommunications Act 1984 .....	303, 437
Terrorism Act 2000 .....	14, 75, 79, 396, 397, 398, 479, 480, 543–53, 565, 606
Terrorism Act 2006 .....	460–1, 544, 547, 549
Terrorism Prevention and Investigation Measures Act 2011 .....	555–557
Terrorist Asset-Freezing (Temporary Provisions) Act 2010 .....	565, 583
Test Act 1685 .....	48
Theatres Act 1968 .....	349, 450, 451, 465, 467
Theft Act 1968 .....	221
Town and Country Planning Act 1990 .....	610, 612, 679
Trade Union and Labour Relations (Amendment) Act 1976 .....	204
Trade Union and Labour Relations (Consolidation) Act 1992 .....	229, 291, 305, 485–8, 520
Transport Act 1947 .....	307
Transport and Works Act 1992 .....	200, 611
Trawling in Prohibited Areas Prevention Act 1909 .....	53
Treasure Act 1996 .....	259
Tribunals, Courts and Enforcement Act 2007 .....	93, 298, 345, 600, 602, 604–6, 606, 607, 627
Tribunals and Inquiries Act 1958 .....	573, 682–3
Tribunals and Inquiries Act 1992 .....	609, 664, 679, 682–3
Tribunals of Inquiry (Evidence) Act 1921 .....	329, 613–15
Union with Ireland Act 1800 .....	5, 34, 238
Union with Scotland Act 1707 .....	5, 14, 32–4, 61, 69–72, 238, 323
United Nations Act 1946 .....	583, 595
Universities (Scotland) Act 1853 .....	70
Utilities Act 2000 .....	303, 309, 310, 315, 317
Video Recordings Act 1984 .....	137, 451, 452, 458
Video Recordings Act 2010 .....	451



Wales Act 1978 .....	37, 170
Wales and Berwick Act 1746 .....	30
War Charges Validity Act 1925 .....	52, 559
War Crimes Act 1991 .....	53, 204
War Damage Act 1965 .....	15, 52, 261, 328
Water Act 1989 .....	303
Water Industry Act 1991 .....	701
Weights and Measures Act 1985 .....	136
Welsh Bible and Prayer Book Act 1563 .....	31
Welsh Church Act 1914 .....	31, 204
Welsh Language Act 1967 .....	31, 32
Welsh Language Act 1993 .....	32
Witnesses (Public Inquiries) Protection Act 1892 .....	226
Youth Justice and Criminal Evidence Act 1999 .....	332, 338, 374, 399

## United Kingdom Orders and Statutory Instruments

Armed Forces (Redress of Individual Grievances) Regulations 2007, SI 2007 No. 3353 .....	719
Civil Procedure Rules 1998, SI 1998 No. 3132 .....	557, 588, 612, 635, 668–71, 678, 679–80, 684, 687, 688, 692, 694
Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995, SI 1995 No. 2587 .....	113
Ecclesiastical Offices (Age Limit) Measure 1975, 1975 No. 2 .....	178
Employment Code of Practice (Picketing) Order 1992, SI 1992 No. 476 .....	487
Environmental Information Regulations 1992, SI 1992 No. 3240 .....	293
Environmental Information Regulations 2004, SI 2004 No. 3391 .....	294
Environmental Information (Scotland) Regulations 2004, SSI 2004 No. 520 .....	294
European Parliament and Council: Public Contracts Regulations 2006, SI 2006 No. 5 .....	715
Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, SI 2004 No. 3244 .....	295
Greater London Authority Elections (Expenses) Order 2000, SI 2000 No. 789 .....	204
Greater London Authority Elections Rules 2000, SI 2000 No. 208 .....	204
Homosexual Offences (Northern Ireland) Order 1982, SI 1982 No. 1536 .....	365
Human Fertilisation and Embryology (Supplementary Provision) Order 2009, SI 2009 No. 2478 .....	280
Human Rights Act 1998 (Amendment) Order 2005, SI 2005 No. 1071 .....	553
Judicial Appointments Regulations 2013, SI 2013 No. 2192 .....	324, 325
Local Government Officers (Political Restrictions) Regulations 1990, SI 1990 No. 851 .....	479
M3 Motorway Scheme 1990, SI 1990 No. 463 .....	489
Merchant Shipping Act 1988 (Amendment) Order 1989, SI 1989 No. 2006 .....	122
National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010, SI 2010 No. 1838 .....	41
National Police Records (Recordable Offences) Regulations 2000, SI 2000 No. 1139 .....	440

Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, SI 2010 No. 976 .....	43
Parliamentary Constituencies (Scotland) Order 2005, SI 2005 No. 250 .....	153
Police Regulations 2003, SI 2003 No. 527 .....	479
Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011, SI 2011 No. 1208 .....	427
Public Appointments Order in Council 2002 .....	313
Public Appointments Order in Council 2013 .....	271, 312, 313
Public Bodies (Abolition of the Administrative Justice and Tribunals Council) Order 2013, SI 2013 No. 2042 .....	607
Public Contracts Regulations 2006, SI 2006 No. 5 .....	680
Qualifications for Appointment to the First-tier Tribunal and Upper Tribunal Order 2008, SI 2008 No. 2692 .....	606
Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003, SI 2003 No. 3171 .....	423, 519
Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, SI 2010 No. 521 .....	423
Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007, SI 2007 No. 1889 .....	626
Representation of the People (England and Wales) Regulations 2001, SI 2001 No. 341 .....	151
Requisitioning of Ships Order 1982 .....	261
Royal Parks and Other Open Spaces (Amendment) Regulations 2004, SI 2004 No. 1308 .....	480
Royal Parks and Other Open Spaces Regulations 1997, SI 1997 No. 1639 .....	480
Rules of the Court of Session 1994, SI 1994 No. 1443 .....	693
Rules of the Supreme Court 1965, SI 1965 No. 1776 .....	671
Scotland Act 1998 (Modification of Schedule 5) Order 2013, SI 2013 No. 242 .....	38
Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, SI 1999 No. 1750 .....	517, 518
Scottish Local Government Elections Order 2007, SSI 2007 No. 42 .....	169, 170
Scottish Parliament (Assistance for Registered Political Parties) Order 1999, SI 1999 No. 1745 .....	159
Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007, SI 2007 No. 3224 .....	280
Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, SI 2001 No. 2568 .....	280
Secretary of State for Education Order 2010, SI 2010 No. 1836 .....	280
Servants of the Crown (Parliamentary, European Assembly and Northern Ireland Assembly) Order 1987 .....	174
Statutory Instruments Regulations 1947, SI 1948 No. 1 .....	576
Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, SI 2000 No. 2699 .....	427
Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, SI 2000 No. 1625 .....	609
Town and Country Planning Appeals (Written Representations Procedure) (England) Regulations 2009, SI 2009 No. 452 .....	610

Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, SI 1997 No. 420 .....	610
Town and Country Planning (Hearings Procedure) (England) Rules 2000, SI 2000 No. 1626 .....	610
Tribunal Procedure (Upper Tribunal) Rules 2008, SI 2008 No. 2698 .....	436
Tribunals and Inquiries (Discretionary Inquiries) Order 1975, SI 1975 No. 1379 .....	609
Utilities Contracts Regulations 2006, SI 2006 No. 6 .....	715
Zimbabwe Constitution Order 1979, SI 1979 No. 1600 .....	6

## Legislation from other jurisdictions

### Canada

Charter of Rights and Freedoms 1982 (Constitution) .....	6, 80
--	-------

### European Union

#### Regulations

Regulation 1049/2001/EC .....	295
-------------------------------	-----

#### Directives

Directive 75/117/EEC .....	135
Directive 76/207/EEC .....	137–8
Directive 83/189/EEC .....	137
Directive 92/43/EEC .....	114
Directive 93/104/EC .....	118
Directive 95/46/EC .....	432
Directive 2003/4/EC .....	294
Directive 2004/17/EC .....	715
Directive 2004/18/EC .....	715

#### Treaties

Council of Europe Social Charter 1961 .....	127
European Community Charter of the Fundamental Social Rights of Workers 1989 .....	128
European Community Treaty (Treaty of Rome as amended) 1957 .....	112, 117, 119, 120, 122, 123–5, 135
European Union Charter of Fundamental Rights 2000 .....	87, 127–8, 431, 627
Single European Act 1986 .....	111
Treaty of Accession (UK) 1972 .....	130
Treaty of Lisbon 2007 .....	11, 111, 120, 128, 139, 431
Treaty of Nice 2000 .....	111, 127–8, 357
Treaty on European Union (Maastricht) 1992 .....	10, 111, 112–17, 127, 132, 137, 140–2
Treaty on the Functioning of the European Union 2009 (TFEU) .....	112–20, 122, 123–6, 128, 132, 133–5, 140–1, 295, 627, 695

### Germany

Basic Law of the Federal Republic of Germany .....	6, 80
--	-------

**India**

Constitution 1949 .....	80
-------------------------	----

**Ireland**

Constitution 1937 .....	35
Poyning's Law 1494 .....	34

**Scotland**

Union with England Act 1707 .....	32
-----------------------------------	----

**Spain**

Constitution .....	237
--------------------	-----

**Sri Lanka**

Constitution .....	91
--------------------	----

**United States**

Constitution, 1787 .....	90, 91
Constitution First Amendment .....	449
Constitution 14th Amendment .....	80

**International conventions**

Convention on the Future of Europe 2003 .....	111
Council of Europe's Revised Social Charter 1996 .....	87
Council of Europe's Social Charter 1961 .....	87

**European Convention on the Protection of Human Rights**

and Fundamental Freedoms 1950 .....	9, 16, 17, 38, 39, 53, 72, 76–77, 81, 84, 86, 88, 92, 93, 115, 121, 127–8, 130, 142, 149, 207, 213, 227, 229, 266, 267, 291, 310, 328, 332, 334–5, 339, 342, 357, 359–87, 388, 392, 398, 399, 400, 408, 412, 416, 419, 421, 424, 426, 431–2, 439, 441, 445, 446, 448, 449, 454, 456, 475, 476, 478, 485, 494, 499, 503, 504, 506, 508, 514, 516, 520, 537, 542, 544, 546, 548, 550, 552, 553, 555, 557, 564–5, 570, 585, 594, 602, 611, 613, 631, 639, 646, 648–50, 656, 658, 665, 670, 673, 679, 682, 688, 691, 696, 706, 708–10, 727, 728, 682, 709, 727
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 1 .....	39, 116, 132, 149, 360, 365, 371, 377, 565, 654
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 4 .....	361
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 6 .....	361
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 7 .....	128, 361
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 8 .....	128
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 11 .....	361, 362
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 12 .....	361
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 13 .....	361, 371

## Table of legislation

European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 14 .....	361, 362
European Convention on the Protection of Human Rights and Fundamental Freedoms 1950, Protocol 15 .....	361, 370
General Agreement on Tariffs and Trade (GATT) 1947 .....	130
International Convention on the Elimination of all Forms of Racial Discrimination 1966 .....	87, 384
International Covenant on Civil and Political Rights 1966 .....	87, 359
International Covenant on Economic, Social and Cultural Rights 1966 .....	384
International Labour Organisation Convention 1987 .....	266, 520
UN Charter 1945 .....	130
UN Convention against Torture 1984 .....	76, 87
UN Universal Declaration of Human Rights 1948 .....	82, 86, 359

# TABLE OF CASES

Note: in this table, many of the longer entries have been shortened; thus the names of many public authorities and companies are not given in full. The abbreviation ‘SSHD’ has been used in place of ‘Secretary of State for the Home Department’ or ‘Home Secretary’.

A v Ahmed [2010] UKSC 2, [2010] 2 AC 534 .....	583, 595, 659, 686
A v B [2009] UKSC 12 .....	528
A v B plc [2002] EWCA Civ 337, [2003] QB 195 .....	443, 444, 445
A v B (Investigatory Powers Tribunal) [2009] UKSC 12, [2010] 2 WLR 1 .....	682
A v National Blood Authority [2001] 3 All ER 289 .....	139
A v SSHD [2004] UKHL 56, [2005] 2 AC 68 .....	16, 77, 80, 84, 109, 360, 367, 375, 507, 537, 553, 648, 649
A v SSHD (No. 2) [2005] UKHL 71, [2006] 2 AC 221 .....	15, 77, 358, 507
A v SSHD (No. 3) [2009] UKHL 29, [2010] 2 AC 269 .....	84
A v UK (1998) 27 EHRR 611 .....	364
A v UK (2003) 36 EHRR 917 .....	219
A v UK [2009] ECHR 301, (2009) 49 EHRR 29, 26 B.H.R.C. 1 .....	84, 360, 367, 553, 557, 650
AAA v Associated Newspapers Ltd [2013] EWCA Civ 554, [2013] WLR (D) 189 .....	444, 446
AB v Ministry of Defence UKEAT 0101–09–2407 .....	521
AB v South West Water Services Ltd [1993] QB 507 .....	710
Abbassy v Commissioner of Police of the Metropolis [1990] 1 All ER 193 .....	406
Abdulaziz v UK (1985) 7 EHRR 471 .....	365
Abraham v Commissioner of Police of the Metropolis [2001] 1 WLR 1257 .....	407
Abraham v Jutsun [1963] 2 All ER 402 .....	659
Abu Qatada v UK <i>see</i> Othman v UK	
Accession of the Community to the ECHR, Re (Opinion 2/94) [1996] ECR I-1759, [1996] 2 CMLR 265 .....	127
Adams v Scottish Ministers 2004 SC 665 .....	39
Adams v War Office [1955] 3 All ER 245 .....	699
Adegbenro v Akintola [1963] AC 614 .....	27
Adeneler v Ellinikos Organismos Galaktos (C-212/04) [2006] ECR I-6057 .....	137
Adorian v Metropolitan Police Commissioner [2009] EWCA Civ 18, [2009] 4 All ER 227 .....	408
A-G v Able [1984] QB 795 .....	688
A-G v Associated Newspapers Ltd [1994] 2 AC 238 .....	339
A-G v Associated Newspapers Ltd [2012] EWHC 2029 (Admin) .....	337
A-G v Bastow [1957] 1 QB 514 .....	687
A-G v BBC [1981] AC 303 .....	338
A-G v BBC (1987) <i>The Times</i> , 18 December .....	531
A-G v BBC [1997] EMLR 76 .....	336
A-G v BBC [2007] EWCA Civ 280 .....	332, 336, 349
A-G v Birmingham Post and Mail Ltd [1999] 1 WLR 361 .....	336
A-G v Blake [2001] 1 AC 268 .....	262, 476, 529
A-G v Butterworth [1963] 1 QB 696 .....	339
A-G v Chaudry [1971] 3 All ER 938 .....	687
A-G v Dallas [2012] EWHC 156 (Admin), [2012] 1 WLR 991 .....	339, 342
A-G v Davey [2013] EWHC 2317 (Admin) .....	339, 342
A-G v De Keyser’s Royal Hotel Ltd [1920] AC 508 .....	262, 264, 715
A-G v English [1983] 1 AC 116 .....	338