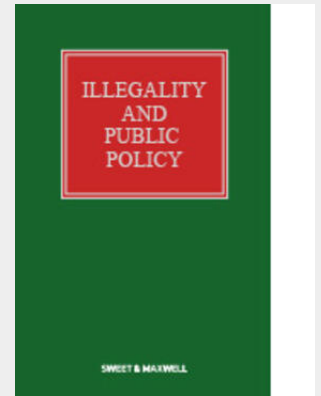


Illegality and Public Policy

The new edition of *Illegality and Public Policy* builds on the strengths of its predecessors in its comprehensiveness, extensive case reference and coverage of the allied area of Restraint of Trade. It also offers fresh coverage of illegality in employment contracts, extensive coverage of up-to-date work by the Law Commission in this field, and worked examples to illustrate the complexities of the field. - Sets out the law relating to illegality and public policy in the context of contracts and the possible undesirable consequences which an agreement may have for society at large - Opening chapters cover the distinction between 'statutory illegality' and illegality derived purely from common law, the need to distinguish between an agreement, and the surrounding circumstances, when ascribing degrees of responsibility for any illegality to the parties involved, and the relationship between criminal law and civil law - Considers the nature and scope of the doctrine of 'Public Policy', looking at such matters as contracts affected by fraud or corruption, issues relating to the integrity of the legal process and the application of public policy to cases with an international dimension - Highlights potential original arguments for challenging and examining contracts - Analyses the difficult topic of the statutory prohibition of Contracts - Considers the effect of criminal activity under the enforceability of a contract - Deals at length with the topic of the restraint of Trade - Covers illegality as it relates to employment law - Examines relief from the consequences of illegality - Includes hypothetical but very practical examples which ground an otherwise elusive subject within practical experience - Explores Commonwealth Case Law suggesting new possible solutions in matters of illegality - Examines in detail the Law Com 320 report by the Law commission regarding the Illegality defence - Looks afresh at the new statute dealing with forfeiture – The Estate of Dead Persons Act 2011 What's New There have been numerous decisions on illegality in the past four years which are examined within the new edition. On the general doctrine of *ex turpi causa ie* 'no cause of action from an untrustworthy source': - *Nayyar v Denton Wilde Sapte* [2009] EWHC 3218 The enforceability of indemnities against illegal acts was considered in: - *Coulson v News Group Newspapers* [2011] EWHC 3482 and *Mulcaire v News Group Newspapers* [2011] EWHC 3469 Other decisions examined include: - Relevant Court of Appeal decisions during the period include cases on champerty/legal process: - *Simpson v Norfolk & Norwich University Hospital Trust* [2011] EWCA Civ 1149 - The consequences of statutory prohibitions were considered afresh in: - *Westlaw Services v Boddy* [2010] EWCA Civ 929 - *Lediaev v Allen* [2009] EWCA Civ 156 - Other commented cases and practice areas: - *Safeway Stores v Twigger* [2010] EWCA Civ 1472 (illegality in competition) - *Parkingeye Ltd v Somerfield Stores Ltd* [2012] EWCA Civ 1338 (general doctrine of *ex turpi causa*) - *Sibthorpe v Southwark LBC* [2011] EWCA Civ 25 (champerty/legal process) - *Craig Joseph v Jason Spiller and 1311 Events Ltd* [2009] EWCA 1075 (statutory illegality) - *Hounga v Allen* [2012] EWCA Civ 609 (effect of race discrimination on legal process) - Restraint of trade: - *Proactive Sports Management Ltd v Rooney* [2011] EWCA Civ 1444 In the four years (2009-2012) since the last edition the House of Lords/Supreme Court considered issues relating to illegality on four occasions. - *Gray v Thames Trains* [2009] UKHL 33 (consequences of criminal act) - *Stone & Rolls v Moore Stephens* [2009] UKHL 39 (effects of fraud) - *Welwyn v Hatfield BC* [2011] UKSC 15 (no benefit from crime) - *Granatino v Radmacher* [2011] AC 534 (enforceability of pre-nuptial agreements) The new edition will also: - Examine in detail the Law Com 320 report by the Law commission regarding the Illegality defence. In this report recommends statutory reform to the law of trusts. Where a trust has been set up to conceal the beneficiary's interest in order to commit a criminal offence, the report recommends that legislation should provide the judges with discretion to deprive the beneficiary of their interest in limited circumstances - Look afresh at the new statute dealing with forfeiture – The Estate of Dead Persons Act 2011 - Provide detailed commentary of the *Coulson v News Group Newspaper* case and also the *Mulcaire v News Group Newspapers* case. Both cases hinge around News group Newspapers not being contractually liable to pay any of the editor's or reporters legal fees that arose as a consequence of criminal



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