



# Contempt of Court Act 1981

## 1981 CHAPTER 49

### *Strict liability*

#### **1 The strict liability rule**

In this Act " the strict liability rule " means the rule of law whereby conduct may be treated as a contempt of court as tending to interfere with the course of justice in particular legal proceedings regardless of intent to do so.

#### **2 Limitation of scope of strict liability**

- (1) The strict liability rule applies only in relation to publications, and for this purpose " publication " includes any speech, writing, broadcast or other communication in whatever form, which is addressed to the public at large or any section of the public
- (2) The strict liability rule applies only to a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced.
- (3) The strict liability rule applies to a publication only if the proceedings in question are active within the meaning of this section at the time of the publication.
- (4) Schedule 1 applies for determining the times at which proceedings are to be treated as active within the meaning of this section.

#### **3 Defence of innocent publication or distribution**

- (1) A person is not guilty of contempt of court under the strict liability rule as the publisher of any matter to which that rule applies if at the time of publication (having taken all reasonable care) he does not know and has no reason to suspect that relevant proceedings are active.
- (2) A person is not guilty of contempt of court under the strict liability rule as the distributor of a publication containing any such matter if at the time of distribution (having taken all reasonable care) he does not know that it contains such matter and has no reason to suspect that it is likely to do so.

- (3) The burden of proof of any fact tending to establish a defence afforded by this section to any person lies upon that person.
- (4) Section 11 of the Administration of Justice Act 1960 is repealed.

#### **4 Contemporary reports of proceedings**

- (1) Subject to this section a person is not guilty of contempt of court under the strict liability rule in respect of a fair and accurate report of legal proceedings held in public, published contemporaneously and in good faith.
- (2) In any such proceedings the court may, where it appears to be necessary for avoiding a substantial risk of prejudice to the administration of justice in those proceedings, or in any other proceedings pending or imminent, order that the publication of any report of the proceedings, or any part of the proceedings, be postponed for such period as the court thinks necessary for that purpose.
- (3) For the purposes of subsection (1) of this section and of section 3 of the Law of Libel Amendment Act 1888 (privilege) a report of proceedings shall be treated as published contemporaneously—
  - (a) in the case of a report of which publication is postponed pursuant to an order under subsection (2) of this section, if published as soon as practicable after that order expires;
  - (b) in the case of a report of committal proceedings of which publication is permitted by virtue only of subsection (3) of section 8 of the Magistrates' Courts Act 1980, if published as soon as practicable after publication is so permitted.
- (4) Subsection (9) of the said section 8 is repealed.

#### **5 Discussion of public affairs**

A publication made as or as part of a discussion in good faith of public affairs or other matters of general public interest is not to be treated as a contempt of court under the strict liability rule if the risk of impediment or prejudice to particular legal proceedings is merely incidental to the discussion.

#### **6 Savings**

Nothing in the foregoing provisions of this Act—

- (a) prejudices any defence available at common law to a charge of contempt of court under the strict liability rule;
- (b) implies that any publication is punishable as contempt of court under that rule which would not be so punishable apart from those provisions ;
- (c) restricts liability for contempt of court in respect of conduct intended to impede or prejudice the administration of justice.

#### **7 Consent required for institution of proceedings**

Proceedings for a contempt of court under the strict liability rule (other than Scottish proceedings) shall not be instituted except by or with the consent of the Attorney General or on the motion of a court having jurisdiction to deal with it.

*Other aspects of law and procedure*

**8 Confidentiality of jury's deliberations**

- (1) Subject to subsection (2) below, it is a contempt of court to obtain, disclose or solicit any particulars of statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in any legal proceedings.
- (2) This section does not apply to any disclosure of any particulars—
  - (a) in the proceedings in question for the purpose of enabling the jury to arrive at their verdict, or in connection with the delivery of that verdict, or
  - (b) in evidence in any subsequent proceedings for an offence alleged to have been committed in relation to the jury in the first mentioned proceedings, or to the publication of any particulars so disclosed.
- (3) Proceedings for a contempt of court under this section (other than Scottish proceedings) shall not be instituted except by or with the consent of the Attorney General or on the motion of a court having jurisdiction to deal with it.

**9 Use of tape recorders**

- (1) Subject to subsection (4) below, it is a contempt of court—
  - (a) to use in court, or bring into court for use, any tape recorder or other instrument for recording sound, except with the leave of the court;
  - (b) to publish a recording of legal proceedings made by means of any such instrument, or any recording derived directly or indirectly from it, by playing it in the hearing of the public or any section of the public, or to dispose of it or any recording so derived, with a view to such publication ;
  - (c) to use any such recording in contravention of any conditions of leave granted under paragraph (a).
- (2) Leave under paragraph (a) of subsection (1) may be granted or refused at the discretion of the court, and if granted may be granted subject to such conditions as the court thinks proper with respect to the use of any recording made pursuant to the leave; and where leave has been granted the court may at the like discretion withdraw or amend it either generally or in relation to any particular part of the proceedings.
- (3) Without prejudice to any other power to deal with an act of contempt under paragraph (a) of subsection (1), the court may order the instrument, or any recording made with it, or both, to be forfeited; and any object so forfeited shall (unless the court otherwise determines on application by a person appearing to be the owner) be sold or otherwise disposed of in such manner as the court may direct.
- (4) This section does not apply to the making or use of sound recordings for purposes of official transcripts of proceedings.

**10 Sources of information**

No court may require a person to disclose, nor is any person guilty of contempt of court for refusing to disclose, the source of information contained in a publication for which he is responsible, unless it be established to the satisfaction of the court that disclosure is necessary in the interests of justice or national security or for the prevention of disorder or crime.

## 11 Publication of matters exempted from disclosure in court

In any case where a court (having power to do so) allows a name or other matter to be withheld from the public in proceedings before the court, the court may give such directions prohibiting the publication of that name or matter in connection with the proceedings as appear to the court to be necessary for the purpose for which it was so withheld.

## 12 Offences of contempt of magistrates' courts

- (1) A magistrates' court has jurisdiction under this section to deal with any person who—
  - (a) wilfully insults the justice or justices, any witness before or officer of the court or any solicitor or counsel having business in the court, during his or their sitting or attendance in court or in going to or returning from the court; or
  - (b) wilfully interrupts the proceedings of the court or other wise misbehaves in court.
- (2) In any such case the court may order any officer of the court, or any constable, to take the offender into custody and detain him until the rising of the court; and the court may, if it thinks fit, commit the offender to custody for a specified period not exceeding one month or impose on him a fine not exceeding £500, or both.
- (3) The court shall not deal with the offender by making an order under section 19 of the Criminal Justice Act 1948 (an attendance centre order) if it appears to the court, after considering any available evidence, that he is under 17 years of age.
- (4) A magistrates' court may at any time revoke an order of committal made under subsection (2) and, if the offender is in custody, order his discharge.
- (5) The following provisions of the Magistrates' Courts Act 1980 apply in relation to an order under this section as they apply in relation to a sentence on conviction or finding of guilty of an offence, namely: section 36 (restriction on fines in respect of young persons); sections 75 to 91 (enforcement); section 198 (appeal to Crown Court); section 136 (overnight detention in default of payment); and section 142(1) (power to rectify mistakes).

## 13 Legal aid

- (1) In any case where a person is liable to be committed or fined—
  - (a) by a magistrates' court under section 12 of this Act;
  - (b) by a county court under section 30, 127 or 157 of the County Courts Act 1959 ; or
  - (c) by any superior court for contempt in the face of that or any other court,the court may order that he shall be given legal aid for the purposes of the proceedings.
- (2) Where an order under subsection (1) is made by any court, the court may order that the legal aid to be given shall consist of representation by counsel only or, in any court where solicitors have a right of audience, by a solicitor only; and the court may assign for the purpose any counsel or solicitor who is within the precincts of the court at the time when the order is made.
- (3) Part II of the Legal Aid Act 1974 shall have effect subject to the amendments set out in Part I of Schedule 2, being amendments consequential on the foregoing provisions of this section.

- (4) In any case where a person is liable to be dealt with for contempt of court during the course of or in connection with Scottish proceedings he may be given legal aid, and the Legal Aid (Scotland) Act 1967 shall have effect subject to the amendments set out in Part II of Schedule 2.
- (5) This section is without prejudice to any other enactment by virtue of which legal aid may be granted in or for purposes of civil or criminal proceedings.

*Penalties for contempt and kindred offences*

**14 Proceedings in England and Wales**

- (1) in any case where a court has power to commit a person to prison for contempt of court and (apart from this provision) no limitation applies to the period of committal, the committal shall (without prejudice to the power of the court to order his earlier discharge) be for a fixed term, and that term shall not on any occasion exceed two years in the case of committal by a superior court, or one month in the case of committal by an inferior court.
- (2) In any case where an inferior court has power to fine a person for contempt of court and (apart from this provision) no limit applies to the amount of the fine, the fine shall not on any occasion exceed £500.
- (3) In relation to the exercise of jurisdiction to commit for contempt of court or any kindred' offence, subsection (1) of section 19 of the Powers of Criminal Courts Act 1973 (prohibition of imprisonment of persons under seventeen years of age) shall apply to all courts having that jurisdiction as it applies to the Crown Court and magistrates' courts.
- (4) Each of the superior courts shall have the like power to make a hospital order or guardianship order under section 60 of the Mental Health Act 1959 in the case of a person suffering from mental illness or severe subnormality who could otherwise be committed to prison for contempt of court as the Crown Court has under that section in the case of a person convicted of an offence.
- (5) The enactments specified in Part III of Schedule 2 shall have effect subject to the amendments set out in that Part, being amendments relating to the penalties and procedure in respect of certain offences of contempt in coroners' courts, county courts and magistrates' courts.

**15 Penalties for contempt of court in Scottish proceedings**

- (1) In Scottish proceedings, when a person is committed to prison for contempt of court the committal shall (without prejudice to the power of the court to order his earlier discharge) be for a fixed term.
- (2) The maximum penalty which may be imposed by way of imprisonment or fine for contempt of court in Scottish proceedings shall be two years' imprisonment or a fine or both, except that—
  - (a) where the contempt is dealt with by the sheriff in the course of or in connection with proceedings other than criminal proceedings on indictment, such penalty shall not exceed three months' imprisonment or a fine of £500 or both; and

- (b) where the contempt is dealt with by the district court, such penalty shall not exceed sixty days' imprisonment or a fine of £200 or both.
- (3) Section 207 (restriction on detention of young offenders) and sections 175 to 178 (persons suffering from mental disorder) of the Criminal Procedure (Scotland) Act 1975 shall apply in relation to persons found guilty of contempt of court in Scottish proceedings as they apply in relation to persons convicted of offences, except—
  - (a) where subsection (2)(a) above applies, when sections 415 and 376 to 379 of the said Act shall so apply; and
  - (b) where subsection (2) (b) above applies, when section 415 of the said Act and subsection (5) below shall apply.
- (4) Until the commencement of section 45 of the Criminal Justice (Scotland) Act 1980, in subsection (3) above for the references to section 207 and section 415 of the Criminal Procedure (Scotland) Act 1975 there shall be substituted respectively references to sections 207 and 208 and sections 415 and 416 of that Act.
- (5) Where a person is found guilty by a district court of contempt of court and it appears to the court that he may be suffering from mental disorder, it shall remit him to the sheriff in the manner provided by section 286 of the Criminal Procedure (Scotland) Act 1975 and the sheriff shall, on such remit being made, have the like power to make an order under section 376(1) of the said Act in respect of him as if he had been convicted by the sheriff of an offence, or in dealing with him may exercise the like powers as the court making the remit.

## **16 Enforcement of fines imposed by certain superior courts**

- (1) Payment of a fine for contempt of court imposed by a superior court, other than the Crown Court or one of the courts specified in subsection (4) below, may be enforced upon the order of the court—
  - (a) in like manner as a judgment of the High Court for the payment of money ; or
  - (b) in like manner as a fine imposed by the Crown Court.
- (2) Where payment of a fine imposed by any court falls to be enforced as mentioned in paragraph (a) of subsection (1)—
  - (a) the court shall, if the fine is not paid in full forthwith or within such time as the court may allow, certify to Her Majesty's Remembrancer the sum payable;
  - (b) Her Majesty's Remembrancer shall thereupon proceed to enforce payment of that sum as if it were due to him as a judgment debt; and
  - (c) any payment received in respect of the fine shall be dealt with by him in the manner for the time being prescribed under section 28 of the Fines Act 1833 for receipts within that section.
- (3) Where payment of a fine imposed by any court falls to be enforced as mentioned in paragraph (b) of subsection (1), the provisions of sections 31 and 32 of the Powers of Criminal Courts Act 1973 shall apply as they apply to a fine imposed by the Crown Court.
- (4) Subsection (1) of this section does not apply to fines imposed by the criminal division of the Court of Appeal or by the House of Lords on appeal from that division.
- (5) The Fines Act 1833 shall not apply to a fine to which subsection (1) of this section applies.

- (6) Paragraph 23(1) of Schedule 11 to the Employment Protection (Consolidation) Act 1978 and paragraph 30 of Schedule 1 to the Employment Act 1980 (which relate to the enforcement of fines imposed by the Employment Appeal Tribunal) are repealed.

## **17 Disobedience to certain orders of magistrates' courts**

- (1) The powers of a magistrates' court under subsection (3) of section 63 of the Magistrates' Courts Act 1980 (punishment by fine or committal for disobeying an order to do anything other than the payment of money or to abstain from doing anything) may be exercised either of the court's own motion or by order on complaint.
- (2) In relation to the exercise of those powers the provisions of the Magistrates' Court Act 1980 shall apply subject to the modifications set out in Schedule 3 to this Act.

### *Supplemental*

## **18 Northern Ireland**

- (1) In the application of this Act to Northern Ireland references to the Attorney General shall be construed as references to the Attorney General for Northern Ireland.
- (2) In their application to Northern Ireland, sections 12, 13, 14 and 16 of this Act shall have effect as set out in Schedule 4.

## **19 Interpretation**

In this Act—

" court" includes any tribunal or body exercising the judicial power of the State, and " legal proceedings " shall be construed accordingly;

"publication" has the meaning assigned by subsection (1) of section 2, and " publish " (except in section 9) shall be construed accordingly;

" Scottish proceedings " means proceedings before any court, including the Courts-Martial Appeal Court, the Restrictive Practices Court and the Employment Appeal Tribunal, sitting in Scotland, and includes proceedings before the House of Lords in the exercise of any appellate jurisdiction over proceedings in such a court;

"the strict liability rule" has the meaning assigned by section 1;

"superior court" means the Court of Appeal, the High Court, the Crown Court, the Courts-Martial Appeal Court, the Restrictive Practices Court, the Employment Appeal Tribunal and any other court exercising in relation to its proceedings powers equivalent to those of the High Court, and includes the House of Lords in the exercise of its appellate jurisdiction.

## **20 Tribunals of Inquiry**

- (1) In relation to any tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 applies, and the proceedings of such a tribunal, the provisions of this Act (except subsection (3) of section 9) apply as they apply in relation to courts and legal proceedings; and references to the course of justice or the administration of justice in legal proceedings shall be construed accordingly.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The proceedings of a tribunal established under the said Act shall be treated as active within the meaning of section 2 from the time when the tribunal is appointed until its report is presented to Parliament.

## **21 Short title, commencement and extent**

- (1) This Act may be cited as the Contempt of Court Act 1981.
- (2) The provisions of this Act relating to legal aid in England and Wales shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument; and the provisions of this Act relating to legal aid in Scotland and Northern Ireland shall come into force on such day or days as the Secretary of State may so appoint. Different days may be appointed under this subsection in relation to different courts.
- (3) Subject to subsection (2), this Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.
- (4) Sections 7, 8(3), 12, 13(1) to (3), 14, 16, 17 and 18, Parts I and III of Schedule 2 and Schedules 3 and 4 of this Act do not extend to Scotland.
- (5) This Act, except sections 15 and 17 and Schedules 2 and 3, extends to Northern Ireland.