CONTENTS

Foreword	XV
Bibliography	xvi
Abbreviations	xvii
List of Tables	xviii
Table of Community Treaties	xix
Table of United Kingdom Statutes	xxi
Tables of Cases	xxiii
PART I. COMMUNITY INSTITUT	TIONS
Introduction	3
Chapter 1. The Political Institutions	8
The Commission	8
Composition	8
Decision-Making	11
Effectiveness	13
The Council	13
COREPER	15
Voting	16
The European Council	20
European Political Co-operation	21
The European Parliament	23
Composition	23
Seat of the Parliament	27
Pay of MEPs	28
Privileges and Immunities	28
Political Parties	28
Committees	29
Parliamentary Questions	30
Legislation	30
The Co-operation Procedure	32
Admission of New Member States and	1 1 1 1 1 1 1 1
Association Agreements	34

vi Contents

Censure of the Commission	34
Conclusions .	36
The Economic and Social Committee	36
The Decision-making Process	37
The Community Budget	39
Conclusions	45
Further Reading	47
Chapter 2. The European Court	49
Structure	49
Judges	49
Advocates General	52
The Registrar	54
Legal Secretaries	54
Specialized Services	55
The Court of First Instance	55
Jurisdiction	56
Procedure	60
The Written Proceedings	60
Admissibility	60
Preparatory Inquiry	61
Oral Procedure	62
Judgment	62
Execution	62
Special Procedures after Judgment	63
Preliminary Rulings	64
Lawyers	65
Multilingualism	66
Court Procedure	70
Drafting the Judgment	71
The Form of Judgment	73
Precedent	75
Interpretation	76
Policy	77
Further Reading	81
PART II. THE COMMUNITY LEGAL SYSTEM	
Introduction	85
Further Reading	87
	01

	Contents	vii
Chapter 3. Acts of the Member States		88
The Constitutive Treaties		88
Subsidiary Conventions		92
Acts of the Representatives of the Member States		96
Further Reading		98
Turther Reading		30
Chapter 4. Community Acts		99
Classification		99
Legislative Powers of the Community		102
Delegation of Powers		110
Delegation to the Commission		111
Delegation to Outside Bodies		113
Delegation to Member States		116
Conclusions		117
Form		117
Proposals and Opinions		117
Reasons		119
Procedure		126
Publication and Notification		127
Further Reading		128
Chapter 5. General Principles of Law		129
Fundamental Human Rights		132
Legal Certainty		139
Retroactivity and Vested Rights		139
Legitimate Expectations		142
Proportionality		145
The Right to a Hearing		147
Equality		148
Legal Professional Privilege		150
Further Reading		152
Chapter 6. Agreements with Third Countries		153
The Treaty-making Power of the EEC		154
Express Powers		154
Implied Powers		156
Legal Proceedings		165

viii Contents

Conclusions	166
The Treaty-making Power of the ECSC	167
The Treaty-making power of Euratom	169
International Agreements and the Community Legal Syste	em 171
Binding the Community	172
Binding the Member States	175
Validity	175
Further Reading	176
PART III. COMMUNITY LAW AND THE ME STATES	MBER
Introduction	181
Further Reading	182
Chapter 7. Direct Effect and the Supremacy of	
Community	
Law	183
The Principle of Direct Effect	183
Jurisdiction	183
The First Requirement	186
The Second Requirement	187
Clear and Unambiguous	189
Unconditional	191
Not Dependent on Further Action	194
Conclusions	194
Treaty Provisions	195
Regulations	195
Directives	200
The First Step	201
The New Principle	201
The Importance of the Deadline	204
Are Directives Now the Same as Regulations?	206
Vertical and Horizontal Direct Effect	208
Decisions	211
General Principles of Law	212
Agreements with Third Countries	213
The Supremacy of Community Law and the Restriction	
of National Powers	215
Further Reading	218

	Contents	1X
Chapter 8. The National Reaction		219
The Constitutional Basis of Community Supremacy		219
Some Special Problems		221
Belgium: A Triumph for Community Law		221
Constitutional Problems in Germany and Italy		223
France: Acceptance and Rebellion		228
Community Law in the United Kingdom		236
The European Communities Act		236
The Community Treaties		237
Direct Effect		239
Implementation		240
Enforcement of Judgments		241
Supremacy of Community Law		242
Further Reading		244
Chapter 9. Preliminary References		246
Which Provisions May Be Referred?		248
Treaties		249
Subsidiary Conventions		249
Acts of the Representatives of the Member States		150
Community Acts		250
General Principles of Law		251
Agreements with Non-Member States		251
Which Courts Are Covered?		254
Power to Refer		254
Obligation to Refer		261
Preliminary Rulings on Validity		266
When Should a Reference be Made?		267
The Law		267
Discretion		272
Procedure		274
English Courts		274
The Reference		275
Appeals against an Order to Refer		275
The European Court		277
Interpretation and Application		278
Effects of Preliminary Rulings		280
Further Reading		281

Chapter 10. Enforcement Actions	283
What Constitutes a Violation?	285
Provisions Covered	285
Violations by the Legislature or Judiciary of a Member State	288
The Administrative Stage	290
Commission Discretion	292
Recording the Violation	294
Time-Limit for Commission Action	296
Consequences of Procedural Defects	297
The Judicial Stage	298
Remedies where the Commission Fails to Act	300
Actions by Member States	304
Interim Measures	306
Restitution and Damages	310
Effectiveness	313
Further Reading	315
PART IV. ADMINISTRATIVE LAW	
FARTIV. ADMINISTRATIVE LAW	
Introduction	319
	010
Chapter 11. Reviewable Acts	322
The Noordwijks Cement Accoord Case	324
The I voor away is demented in coord Case	
	326
Legal Effect Void and Voidable Acts	
Legal Effect	326
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission	326 331
Legal Effect Void and Voidable Acts	326 331 335
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission	326 331 335
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi	326 331 335 337 338
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants	326 331 335 337
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements	326 331 335 337 338 338
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty	326 331 335 337 338 338
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty The Relationship Between the Requirements	326 331 335 337 338 338 339 344
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty The Relationship Between the Requirements Individual Concern and the Nature of a Decision	326 331 335 337 338 338 339 344 346
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty The Relationship Between the Requirements Individual Concern and the Nature of a Decision Small Groups	326 331 335 337 338 338 339 344 346 346
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty The Relationship Between the Requirements Individual Concern and the Nature of a Decision Small Groups Open and Closed Categories: Regulations	326 331 335 337 338 338 339 344 346 346 347
Legal Effect Void and Voidable Acts Acts of the Council and of the Commission Further Reading Chapter 12. Locus Standi Privileged Applicants Non-privileged Applicants: Basic Requirements under the EEC Treaty The Relationship Between the Requirements Individual Concern and the Nature of a Decision Small Groups	326 331 335 337 338 338 339 344 346 346

	Contents	Xi
Quasi-Judicial Determinations		354
Competition Proceedings		354
Anti-Dumping Proceedings		356
State Aid		358
Conclusions		359
Direct Concern		359
Non-Privileged Applicants: The ECSC Treaty		364
Further Reading		368
Chapter 13. Failure to Act		370
Negative Decisions		372
Parties to the Proceedings		374
Reviewable Omissions		375
Preliminary Acts		378
Failure to Repeal an Act		379
The Request for Action		382
Time-Limit for Making Request		384
Definition of Position		387
Locus Standi		390
Form of Judgment		392
Further Reading		393
Chapter 14. Indirect Challenge		394
Treaty Provisions		396
EEC		396
ECSC		397
What Acts May Be Challenged?		398
European Court: Individual Acts Addressed to		
Another Person	and the same	399
National Courts: Challenge by the Addressee		403
Who May Make the Challenge?		404
In What Proceedings May the Challenge be Made?		405
On What Grounds May the Challenge be Made?		406
The Effect of a Successful Challenge		407
Further Reading		407
Chapter 15. Grounds of Review		409
The Formal Grounds		410
Lack of Competence		410
Infringement of an Essential Procedural Requirement		411

xii Contents

Infringement of the Treaty or of any Rule of	
Law Relating to its Application	414
Misuse of Powers	415
The Time Factor	419
Interest	421
Mistake of Fact	423
The ECSC Treaty	425
The EEC Treaty	427
Failure to Act	429
Requirement to Act	431
Power to Act	431
Conclusions	432
Further Reading	432
Chapter 16. Annulment and Revocation	434
Annulment	434
Retroactivity	434
Compliance with the Judgment	436
Partial Annulment	436
Rejection of Application	437
Indirect Challenge	438
Revocation	439
Lawful Acts	439
Unlawful Acts	439
Further Reading	444
Chapter 17. Community Obligations	445
Contract	445
Jurisdiction of the European Court	445
Choice of Law	446
Quasi-Contract	449
Substantive Law	450
Jurisdiction	450
Tort	453
Acts Imputable to the Community	458
Damage and Causation	462
Fault	463
Liability for Acts Intended to Have Legal Effects	468
The 'Plaumann Doctrine'	470
The 'Schöppenstedt Formula'	473

	Contents	xiii
First Requisite		474
Second Requisite		476
Third Requisite		480
Conclusions		483
Concurrent Liability: The Community and the Mer	nber	
States		483
Restitution		489
Statutory Obligation		489
No National Remedy		490
Tort		491
Further Reading		492
INDEX		493