

Contents

<i>Preface</i>	v
<i>Table of Statutes</i>	xi
<i>Table of Statutory Instruments</i>	xiii
<i>Table of Cases</i>	xv
1 INTRODUCTION	1
2 THE ACTIONS OF SPORTS GOVERNING BODIES	4
A ACTIONS AFFECTING A SPECIFIC INDIVIDUAL PARTICIPANT	4
B ACTIONS AFFECTING A CLASS OF INDIVIDUAL PARTICIPANTS	9
C FAILURE TO TAKE ACTION IN RELATION TO INDIVIDUAL PARTICIPANTS	12
D ACTIONS AFFECTING SPECIFIC CLUBS	12
E ACTIONS AFFECTING ALL CLUBS	15
F ACTIONS AFFECTING OTHER SPORTS GOVERNING BODIES	17
G ACTIONS AFFECTING COMMERCIAL PARTNERS	18
H ACTIONS AFFECTING THE PUBLIC	24
I ACTIONS OF PARTICIPANTS AFFECTING OTHER PARTICIPANTS	24
3 IDENTIFICATION OF CAUSE OF ACTION AND RESPONDENT	26
A CAUSE OF ACTION	26
B RESPONDENT	30
4 CHOICE OF FORUM FOR THE CHALLENGE	34
A INTERNAL PROCEEDINGS AND INTERNAL DISPUTE RESOLUTION	34
B ATTEMPTS TO OUST THE JURISDICTION OF THE COURTS	37
C EXTERNAL ARBITRATION	37
D COURT	43
E ALTERNATIVE DISPUTE RESOLUTION OR MEDIATION	43
F ADMINISTRATIVE AUTHORITIES	44
5 PUBLIC OR PRIVATE?	45
A PUBLIC OR PRIVATE FOR THE PURPOSES OF THE CHOICE OF PROCEDURE	46
B THE HUMAN RIGHTS ACT 1998	48
C THE EXTENSION TO SPORTS GOVERNING BODIES OF EU FREE MOVEMENT LAW	50
6 THE VARYING DEGREES OF REVIEW	52
A JUDICIAL RELUCTANCE TO INTERVENE	52
B THE CONTEXTS IN WHICH THE PRINCIPLE HAS BEEN APPLIED	53
C LIMITATIONS ON THE PRINCIPLE	53
D DOES THE PRINCIPLE APPLY IN THE CONTEXT OF RESTRAINT OF TRADE?	55

E	SHOULD SPECIALIST ARBITRAL BODIES BE SO RELUCTANT?	55
F	RELUCTANCE TO INTERVENE UNDER EUROPEAN LAW	55
7	 GROUNDS FOR REVIEW ARISING OUT OF CONTROL OF THE SPORT	57
A	THE EXTENT OF AND BASIS FOR THE GROUNDS FOR REVIEW	57
B	THE REQUIREMENT TO ACT LAWFULLY AND IN ACCORDANCE WITH THE SPORTS GOVERNING BODY'S RULES	83
C	THE REQUIREMENT TO ACT FAIRLY IN A PROCEDURAL SENSE, OR 'NATURAL JUSTICE'	86
D	THE REQUIREMENT TO TAKE INTO ACCOUNT ONLY RELEVANT CONSIDERATIONS	94
E	THE REQUIREMENT THAT THE BODY INSTRUCT ITSELF PROPERLY AS TO THE FACTS	94
F	THE REQUIREMENT NOT TO ACT CONTRARY TO A LEGITIMATE EXPECTATION	95
G	THE REQUIREMENT NOT TO ACT UNREASONABLY, IRRATIONALLY, ARBITRARILY OR CAPRICIOUSLY	95
8	 CONTRACT	98
A	THE SOURCES OF CONTRACTS TO WHICH SPORTS GOVERNING BODIES ARE PARTY	98
B	EXPRESS CONTRACTUAL OBLIGATIONS	105
C	IMPLIED CONTRACTUAL OBLIGATIONS	106
D	THE RELATIONSHIP BETWEEN EXPRESS AND IMPLIED CONTRACTUAL OBLIGATIONS	107
9	 TORT	108
A	ACTIONS IN NEGLIGENCE AGAINST SPORTS GOVERNING BODIES	108
B	INDUCING BREACH OF CONTRACT AND THE ECONOMIC TORTS	110
C	ACTIONS AGAINST SPORTS GOVERNING BODIES BASED ON OTHER TORTS?	111
10	 COMMON LAW RESTRAINT OF TRADE	112
A	THE BASIS FOR AND EXTENT OF THE DOCTRINE	112
B	APPLICATION TO THE RULES AND ACTIONS OF SPORTS GOVERNING BODIES	116
C	DOES THE DOCTRINE REMAIN A DISTINCT BASIS FOR CHALLENGE?	126
11	 EU AND DOMESTIC COMPETITION LAW	128
A	THE COMPETITION LAW RULES IN BRIEF	129
B	APPLICATION OF THE RULES BY THE ENGLISH COURTS IN THE CONTEXT OF SPORT	131
12	 THE EU FREE MOVEMENT RULES	137
A	THE FREE MOVEMENT RULES IN BRIEF	137
B	APPLICATION OF THE RULES BY THE ENGLISH COURTS IN THE CONTEXT OF SPORT	139

13 REMEDIES	141
A INTERIM INJUNCTIONS	142
B FINAL INJUNCTIONS	147
C INTERIM DECLARATIONS	149
D FINAL DECLARATIONS	150
E REMISSION FOR A FRESH DECISION	151
F DAMAGES	152
G REMEDIES UNDER THE HUMAN RIGHTS ACT 1998	155
H UNFAIR PREJUDICE PETITIONS UNDER SECTION 994 OF THE COMPANIES ACT 2006	156
14 PROCEDURAL ASPECTS	157
A PARTIES	157
B OBTAINING A QUICKER RESOLUTION OF THE ISSUE	158
C SECURITY FOR COSTS	161
D STAY IN THE LIGHT OF AN ARBITRATION CLAUSE OR INTERNAL PROCEEDINGS	161
E STAY IN THE LIGHT OF PENDING CRIMINAL PROCEEDINGS	163
F STAY IN THE LIGHT OF PENDING CHALLENGE	163
G STAY IN THE LIGHT OF PARALLEL REGULATORY COMPETITION PROCEEDINGS	164
H REFERENCES TO THE EUROPEAN COURT OF JUSTICE	164
I JURISDICTION AND APPLICABLE LAW	165
INDEX	169