[illegible]

[illegible] Peradilan [illegible] of Court

[illegible]

Publikasi Hukum Dan Peradilan
Mahkamah Agung Republik Indonesia

http://www.sias-ri.go.id

KATA PENGANTAR

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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NASKAH AKADEMIS
TERHADAP
PENELITIAN CONTEMPT OF COURT

BAB I

PENDAHULUAN

A. LATAR BELAKANG

[illegible]

[illegible]

B. PEMBAHASAN

[illegible]

[illegible]

[illegible]

[illegible]

Seiring dengan [illegible] Contempt of Court [illegible]

[illegible] Undang-Undang Nomor 14 Tahun 1985, [illegible]

C. MAKSUD DAN TUJUAN

[illegible] Contempt of Court.

II. [illegible]

[illegible]

[illegible]

I. [illegible]

[illegible]

1. [illegible]

[illegible]

- [illegible]

BAB II

TINJAUAN TENTANG CONTEMPT OF COURT

A. PENGERTIAN

[illegible]

[illegible]

[illegible]

II. [illegible]

[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

C. ANALISA KUESIONER LANJUTAN TENTANG [illegible]

[illegible] Sesuai [illegible] Panitera/Sekretaris Jenderal Mahkamah Agung RI No. 001 tanggal 7 Januari 2001, [illegible] Surat Keputusan [illegible] Mahkamah Agung RI tanggal 16 Juli 2001 [illegible] [illegible]

[illegible] Jawa Barat, Nusa Tenggara Barat, Nusa Tenggara Timur, Jawa Timur, Jawa Tengah, [illegible] Ujung Pandang, [illegible] Pengadilan [illegible], Pengadilan Agama, [illegible]

Tabel [illegible]

(Responden dan Lokasi)

No	LOKASI / KOTA	LEMBAGA PERADILAN				JUMLAH
		PN	PA	TUN	MILITER	
1.	JAWA TIMUR	10	40			65
2.	IRIAN JAYA	-	47	-	-	47
3.	NTT		25	-	-	[illegible]
4.	MEDAN	58	[illegible]	4	-	[illegible]
5.	SEMARANG	-	21	-	-	[illegible]
6.	MATARAM	30	[illegible]			62
7.	DENPASAR	30	-	-		[illegible]
8.	UJUNG PANDANG	12	11	10	2	[illegible]
9.	SURAKARTA	59	[illegible]	10		[illegible]
10.	MANADO	15	[illegible]	[illegible]	1	[illegible]
11.	JAKARTA	16	[illegible]	2	-	[illegible]
12.	BANDUNG	35	[illegible]	7	-	[illegible]
13.	BATAM	20	[illegible]	-	-	[illegible]
14.	JAMBI	30	[illegible]	4		[illegible]
	JUMLAH	[illegible]	[illegible]	[illegible]	12	[illegible]

Dari 611 [illegible] Hasil [illegible] Tenggara [illegible] dalam [illegible]

[illegible]

[illegible]

Tabel 2

[illegible]

[illegible]		[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	

Bila dipercaya, [illegible] yang [illegible] [illegible] [illegible]

[illegible]

- [illegible]

[illegible]

Tabel 3

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
1	[illegible]	[illegible]	
2	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]		[illegible]	[illegible]

[illegible]

Tabel 4

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]		[illegible]	[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Tabel 9

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
1	[illegible]	[illegible]	
2	[illegible]	[illegible]	
3	[illegible]	[illegible]	[illegible]

[illegible]

[illegible]

Responden yang [illegible] yang sebanyak 29 orang menyatakan [illegible] COC. Selanjutnya [illegible] dan 105 orang [illegible] tentang COC. Sebanyak 227 orang responden [illegible] COC [illegible] Tabel 6.

Tabel 6

Cara menanggulangi pelanggaran COC [illegible]

[illegible] COC

No.	URAIAN	JML	Persentase (%)
1	[illegible]	57	
2	[illegible]	172	
3	[illegible] COC	101	
4	[illegible]	89	
5	MENEMPATKAN PETUGAS KEAMANAN	[illegible]	
	JUMLAH	[illegible]	100

[illegible] yang berkaitan dengan COC [illegible] 102 orang [illegible]

[illegible]

Tabel [illegible]

[illegible]

No	URAIAN	JML	Prosentase (%)
1	[illegible]	102	
2	[illegible]	[illegible]	
3	[illegible]	141	
4	[illegible]	200	
	JUMLAH	611	100

BAB III

PENYELESAIAN PERKARA CONTEMPT OF COURT

A. CONTEMPT OF COURT DI INDONESIA

Tugas utama dari lembaga peradilan tidak lain adalah menegakkan supremasi hukum. Untuk melaksanakan tugas tersebut, lembaga peradilan harus bebas dari campur tangan pihak manapun. Dengan demikian, lembaga peradilan harus bebas dari pengaruh kekuasaan eksekutif, legislatif, atau kekuatan-kekuatan yang ada di masyarakat. Untuk menjaga kebebasan lembaga peradilan dalam menegakkan supremasi hukum, maka lembaga peradilan harus diberikan kewenangan untuk menjatuhkan sanksi terhadap siapa saja yang merendahkan martabat lembaga peradilan.

Lembaga peradilan merupakan salah satu pilar dalam sebuah negara hukum. Oleh karena itu, lembaga peradilan harus bebas dari campur tangan pihak manapun. Dengan demikian, lembaga peradilan harus diberikan kewenangan untuk menjatuhkan sanksi terhadap siapa saja yang merendahkan martabat lembaga peradilan. Kewenangan ini dikenal dengan kewenangan untuk menghukum pelaku *contempt of court*. Kewenangan untuk menghukum pelaku *contempt of court* ini merupakan salah satu prinsip yang universal yang

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

A. Contoh Soal dan Pembahasan

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

4. [illegible]

[illegible]

[illegible]

[

[illegible]

[illegible]

[illegible]

5 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

B. PERKAWINAN PERBEDAAN KEWARGANEGARAAN DAN PERCERAIAN DI COURT

1. Perkawinan pada Umumnya dan Perkawinan di Luar Negeri

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

A. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

3. [illegible]

[illegible]

[illegible] [illegible] [illegible] [

[illegible]

C. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

9. [illegible]

[illegible]

10. [illegible]

[illegible]

Selain tanaman pelindung pohon, ada juga tanaman yang
[illegible]

[illegible]

[illegible]

[illegible]

C. CONTEMPT OF COURT DI INDONESIA

[illegible]

[illegible]

[illegible]

[illegible]

BAB IV

LANDASAN YURIDIS PERLUNYA CONTEMPT OF COURT

A. KEKUASAAN KEHAKIMAN YANG MANDIRI (INDEPENDENCE OF THE JUDICIARY) DAN KEBEBASAN BERPENDAPAT

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

- [illegible]

  [illegible]

  [illegible]

- [illegible]

[illegible]

[illegible]

[illegible] pemakaian [illegible] perorangan [illegible] yang [illegible] dan [illegible] pada pasal [illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

B. CONTEMPT OF COURT DALAM HUKUM POSITIF DI INDONESIA.

Istilah contempt of court di Indonesia [illegible]

> [illegible]

[illegible]

Berdasarkan penelitian [illegible] Contempt of Court, [illegible]

- [illegible] dan bawah [illegible] digabungkan [illegible] pengolahan dengan [illegible] [illegible]

- Mesin [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

- [illegible] yang [illegible]
  [illegible]
  [illegible]
  [illegible]

- [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

- [illegible]
- [illegible]
- [illegible]

[illegible]

- [illegible]

- [illegible]

- [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

pengaturan yang mengatur tentang contempt of court, maka yang harus segera dilakukan adalah menyusun dan membuat undang-undang tentang *contempt of court*. Undang-undang tersebut nantinya mengatur tentang hal-hal yang tegas baik subyek dan obyek hukumnya [illegible] sanksi yang [illegible] [illegible] dalam pasal 9.0 KUHP. [illegible] [illegible] terhadap individu atau pejabat [illegible] [illegible].

Sebenarnya di dalam sistem hukum kita *contempt of court* yang ada hanya [illegible] diatur dalam pasal 207, 217, 214, 217, 218, 216, 210, 221, 222, 224 [illegible] (KUHP). Sedangkan pengaturannya [illegible] hanya bersifat [illegible] sanksi hukuman relatif ringan, yaitu [illegible] Mahkamah Agung, [illegible] dan Kepolisian.

Dalam pasal 217 KUHP misalnya, [illegible] mengatur perbuatan "gaduh" yang dilakukan [illegible] pengadilan, tetapi tidak mengatur perbuatan "gaduh" [illegible] [illegible] dalam [illegible] sidang.

Berikut ini [illegible] beberapa pasal yang berkaitan dengan [illegible] *contempt of court*.

Pasal 211 KUHP

(1) [illegible]

(2) [illegible]

(3) [illegible]

Pasal 212 KUHP [illegible]

[illegible]

Pasal 213 KUHP

[illegible]

[illegible]

Pasal 212 [illegible]

[illegible]

Pasal 214 [illegible]

1. [illegible]

2. [illegible]

   a. [illegible]

   b. [illegible]

Pasal 10 (Sepuluh) Ayat (2) huruf c dihapus

Pasal 11

(1) Hakim, hakim ad hoc, panitera pengganti, dan panitera pengganti ad hoc yang melanggar ketentuan sebagaimana dimaksud dalam Pasal 10 ayat (1) dan ayat (2) dikenai sanksi administratif berupa pemberhentian sementara dari jabatannya.

(2) Hakim, hakim ad hoc, panitera pengganti, dan panitera pengganti ad hoc yang dikenai sanksi administratif berupa pemberhentian sementara dari jabatannya sebagaimana dimaksud pada ayat (1) dapat diusulkan oleh Komisi Yudisial kepada Mahkamah Agung untuk dijatuhi sanksi administratif berupa pemberhentian tetap.

(3) Hakim, hakim ad hoc, panitera pengganti, dan panitera pengganti ad hoc yang dikenai sanksi administratif berupa pemberhentian tetap sebagaimana dimaksud pada ayat (2) dapat mengajukan keberatan kepada Mahkamah Agung.

Pasal 11A dihapus

Pasal 12

Pihak yang dirugikan dalam pelaksanaan wewenang dan tugas sebagaimana dimaksud dalam Pasal 13 huruf b dan huruf c Undang-Undang ini dapat mengajukan laporan kepada Komisi Yudisial.

5. KETENTUAN PENUTUP DAN CONTOH PENGESAHAN

Peraturan perundang-undangan yang mengubah suatu undang-undang harus memuat dalam bagian penutup ketentuan mengenai

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

1. Marriage Product :

   - Objective and Technique Selection Process

     [illegible] [illegible] [illegible]

menjadi faktor pencegah bagi seseorang untuk berperilaku yang tidak menghormati Pengadilan.

c. [illegible]

[illegible] Contempt of Court [illegible]

2. Dari Segi Negatif :

[illegible]

[illegible]

[illegible] Contempt of Court [illegible]

BAB V

PENUTUP

A. KESIMPULAN

[illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

Kebijakan Program Pembangunan Hukum [illegible] pada bidang peradilan "[illegible] Undang-undang tentang Contempt of Court Tahun 2005?"

B. SARAN

- Diperlukan adanya proses penelitian yang lebih guna menyiapkan [illegible] terkait dengan Undang-undang tentang Contempt of Court.

- Untuk itu perlu dibentuk Tim Naskah Akademik Mahkamah Agung untuk menyusun RUU tentang Contempt of Court yang [illegible]

- Pengaturan proses penyelesaian perkara [illegible]

- Untuk [illegible] untuk meningkatkan profesionalisme dan integritas hakim. Dalam [illegible] Contempt of Court [illegible]

Pemidanaan sistem penyebaran konten
terhadap contempt of court

[illegible]

Jawaban Responden

1. [illegible]

   [illegible]

2. [illegible]

   [illegible]

3. [illegible]

   [illegible]

4. [illegible]

[illegible]

5 [illegible]

[illegible]

6 [illegible]

[illegible]

7 [illegible]

[illegible]

[illegible]

V. [illegible]

[illegible]

VI. [illegible]

[illegible]

[illegible]

10. [illegible]

[illegible]

11. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

APPENDIX V

RULES MADE UNDER

SECTION 23 OF THE CONTEMPT

OF COURTS ACT, 1971

RULES MADE BY THE SUPREME COURT OF INDIA

Rules made under Sec. 23 of the Contempt of Courts Act, 1971

Rules regulating practice in Contempt in the Supreme Court, 1975

G.S.R. [illegible] dated 26th January, 1975 : — In exercise of the powers conferred by Section 23 of the Contempt of Courts Act, 1971 (70 of 1971) and all other powers enabling it in this behalf, the Supreme Court makes the following rules with the approval of the Central Government, namely :—

1. These rules may be called the Rules regulating practice in Contempt in the Supreme Court, 1975.

(2) These rules shall come into force on the date of their publication in the Official Gazette.

PART I

2. (1) Where contempt is committed in view or presence or hearing of the Court, the contemner may be punished by the Court before which it is committed either forthwith or on such date as may be appointed by the Court in that behalf.

(2) Pending the determination of the charge, the Court may direct that the contemner shall be detained in such custody as it may specify:

Provided that the contemner may be released on bail on such terms as the Court may direct.

PART II

3. In case of contempt other than the contempt referred to in Rule 2, the Court may take action—(a) suo motu; or

(b) on a petition made by Attorney-General, or Solicitor-General; or

(c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Attorney-General or the Solicitor-General.

4. (1) Every petition under Rule 3(b) or (c) shall contain—

(i) [illegible]

(ii) [illegible]

(iii) [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

the court as directed on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing till the proceeding is finally disposed of by order of the court.

(b) When notice is ordered on a petition, a copy of the petition along with the annexures and affidavits shall be served upon the person charged.

7. The person charged may file his reply duly supported by an affidavit or affidavits.

8. No further affidavit or document shall be filed except with the leave of the court.

9. Unless otherwise ordered by the court, three copies of the paper book shall be prepared in the Registry one for the petitioner, one for the opposite party and the remaining for the use of the court. The paper book in the case shall be prepared at the expense of the Central Government and shall consist of the following documents:

(i) Petition and affidavits filed by the petitioner.

(ii) A copy of the statement relating to the contempt/reference containing the alleged contempt.

(iii) Reply and affidavits of the opposite party.

(iv) Documents filed by the parties.

10. The court may direct the Attorney General or Solicitor General to appear and assist the court.

12. The Court may either suo motu or on motion made for that purpose, order the attendance for cross-examination, of a person whose affidavit has been filed in the matter.

13. The Court may make orders for the purpose of securing the attendance of any person to be examined as a witness and for the discovery or production of any document.

14. The Court may pass such orders as it thinks fit including orders as to costs which may be recovered as if they were decrees of the Court.

15. Save as otherwise provided by the rules contained herein, the provisions of the Supreme Court Rules, 1966, shall, so far as may be, apply in relation to the proceedings in the Court under this part.

PART III

16. Where a person charged with contempt is adjudged guilty and sentenced to suffer imprisonment, a warrant of commitment and detention shall be made out in Form IV under the signature of the Registrar. Every such warrant shall remain in force until it is cancelled by order of the Court or until it is executed. The Superintendent of the Jail shall in pursuance of the order, receive the person so adjudged and detain him in custody for the period specified therein or until further orders.

FORM I

Notice to a Person charged with contempt of court

(See Rule 6)

IN THE SUPREME COURT OF INDIA

(Original Jurisdiction)

Whereas your attendance is necessary to answer a charge of contempt of court by (here briefly state nature of the contempt);

You are hereby required to appear in person (or by Advocate if so permitted) before this Court at New Delhi on the ...... day of .... 19......

You shall attend the court in person on the .... day of .... 19...... and shall continue to attend till the case against you is finally disposed of or [illegible] ordered by the court [illegible] on the charge against you.

Herein fail not.

Dated this .... day of .... 19...

SEAL REGISTRAR

Endorsement where the person charged is allowed to appear by Advocate.

FORM II

Warrant of Arrest

(See rule 11)

IN THE SUPREME COURT OF INDIA

(Original Jurisdiction)

To,

(Name and designation of the person or persons who is to execute the warrant)

Whereas ... ... of ... is charged with committing contempt of this Court, you are hereby directed to arrest ...

Herein fail not.

(If the court has issued a bailable warrant, the following endorsement shall be made on the warrant)

If the said ... ... shall give bail to himself in the sum of Rs ... ... with one surety in the sum of Rs ... (or two sureties each in the sum of Rs ... ...) to attend before the Court on the ... day of ... ... 19..., and to continue so to attend until otherwise directed by the Court, he may be released.

Dated this ... day of ... ... 19 ...

(SEAL) REGISTRAR

FORM III

Bond and bail bond after arrest under a warrant

IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)

I, (name) .... of .... being brought before the Registrar of the Supreme Court .... (or as the case may be) under a warrant issued to compel my appearance to answer to the charge of contempt of the Supreme Court, do hereby bind myself to attend the Supreme Court on the ... . day of .... next, to answer to the said charge, and to continue so to attend until otherwise directed by the Supreme Court, and in case of my making default herein, I bind myself to forfeit to Government of India the sum of rupees

Dated this .... day of .... 19 ....

(SEAL) REGISTRAR

I do hereby declare myself surety for the above-named .... of

that he shall attend before .... in the Supreme Court on the .... day of ... next, to answer to the charge on which he has been arrested and shall continue so to attend until otherwise directed by the Supreme Court; and in case of his making default therein, I bind myself to forfeit to the Government of India the sum of rupees

And in default [illegible] to the Union of India the sum of rupees

Dated this ...... day of .... 19...

(SEAL) REGISTRAR

FORM IV

Warrant of commitment for contempt

(See Rule 15)

IN THE SUPREME COURT OF INDIA

(Original Jurisdiction)

To the Superintendent of the Central Jail at

Whereas at the court holden on this day (name and description of the contemner) has been adjudged by this court guilty of wilful contempt of court, and is sentenced to simple imprisonment for the period .... (here specify the term) and/or fine of rupees

This is to authorise and require you, the Superintendent of the Central Jail, to receive the said contemner into your custody, together with this warrant and him safely to keep in the said Jail for the said period of (term of imprisonment) or until he is earlier released by order of this court and to return to this court the warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said is in your custody, produce the said before the court, at all times when the court shall so direct.

Given under my hand and the seal of this court, this day of 19

(SEAL) REGISTRAR

APPENDIX XXXIX

THE CONTEMPT OF COURT ACT, 1981

[1981 C. 49]

An Act to amend the law relating to contempt of court and related matters

[25th July, 1981]

Strict liability

1. The strict liability rule is the rule of law whereby conduct may be punished as contempt of court as tending to impede or prejudice the administration 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 to a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced.

(2) The strict liability rule applies to a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced by it.

(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 publication 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) Repealed by the Administration of Justice Act 1985, [illegible]

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) [Repealed by the Magistrates' Courts Act 1980, Section 4(4)]

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. —

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 subsection 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 (but not including 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) [illegible]

(3) [illegible]

(4) [illegible]

10. [illegible]

11. [illegible]

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 otherwise 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 £2,500, or both.

(3) [Repealed by the Criminal Justice Act 1982, Section 78, Schedule 16.]

(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 [illegible] provisions of the Magistrates' Courts Act [illegible] apply in relation to an order under this section as they apply in relation to [illegible] [illegible] [illegible] young persons), Section [illegible] (enforcement), Section [illegible] (appeal [illegible]) [illegible] and Section [illegible] [illegible] [illegible]

13. Legal aid.

(1) [illegible]

(i) by a magistrates' court under Section [illegible] of this Act;

(ii) [illegible] County Courts Act [illegible]; or

(iii) by any [illegible] court [illegible] [illegible] for the purposes of the proceedings.

(2) [illegible] the court may [illegible] legal aid [illegible] [illegible] the proceedings [illegible] order is made.

(3) [illegible]

amendments set out in Part I of Schedule 2 being amendments consequential on the foregoing provisions of this section.

(4) [Applies to Scotland only.]

(5) This section is without prejudice to any other enactment by virtue of which legal aid may be granted in or for the 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 [£1,000].

(2A) In the exercise of jurisdiction to commit for contempt of court or any kindred offence the court shall not deal with

the offender by making an order under section 17 of the Criminal Justice Act, 1982 (an attendance centre order) if it appears to the court, after considering any available evidence, that he is under 21 years of age.

(3) [Repealed by the Criminal Justice Act 1988, Section 170 & Schedule 15].

(4) Each of the superior courts shall have the like power to make a hospital order or guardianship order under section 37 of the Mental Health Act 1983 or an interim hospital order under Section 38 of that Act in the case of a person suffering from mental illness or severe mental impairment 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.

(4A) Each of the superior courts shall have the like power to make an order under Section 35 of the said Act of 1983 (remand for report on accused's mental condition) where there is reason to suspect that a person who could be committed to prison for contempt of court is suffering from mental illness or severe mental impairment as the Crown Court has under that section in the case of an accused person within the meaning of that section.

(4B) For the purposes of the preceding provisions of this section, a county court shall be treated as a superior court and not as an inferior court.

(5) The enactments specified in Part I of Schedule 1 shall have

[illegible]

13. (Applies to Scotland only)

(1) Further recovery of fines imposed by certain superior courts

(a) [illegible]

(b) [illegible]

(2) Warrant for payment of a fine imposed by the High Court

(a) [illegible]

(b) [illegible]

(4) [Repealed by the [illegible] Act 19[illegible], Section [illegible] Schedule [illegible]]

(5) Where a person is fined [illegible] in relation to [illegible] subsection (1), the provisions of sections 31 and 32 of the Powers of Criminal Courts Act, 1973 shall apply as they apply [illegible] imposed by the Crown Court.

(6) Subsection (1) of this section does not apply to fines imposed by the [illegible] on appeal [illegible] House of Lords [illegible]

(7) The Fines Act, 18[illegible] shall not apply to a fine to which subsection (1) of this section applies.

(8) [Subsection repealed [illegible] Act 19[illegible] Schedule [illegible] paragraph [illegible] and the Employment Act 19[illegible] Schedule [illegible] paragraph [illegible]]

17. [illegible]

(1) [illegible] Magistrates' Courts Act, 19[illegible] [illegible]

(2) In relation to the exercise of those powers the [illegible] of the Magistrates' Courts Act 1980 shall apply subject to the modifications set out in Schedule [illegible] to this Act.

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 15 of this Act shall have effect as set out in Schedule 4.

19. Interpretation. In this Act:

[illegible]

"Court" means any tribunal or body exercising the judicial power of the state. And "legal proceedings" shall be construed accordingly.

"The publication" has the meaning assigned to it in 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.

"Supreme Court" means the Court of Appeal, the High Court, the Crown 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.

(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 relating to legal aid in Scotland 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 sub-section (2) above, this Act and [illegible] 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.

SCHEDULES

SCHEDULE 1

Times when proceedings are active for purposes of Section 2

Preliminary

1 In this Schedule 'criminal proceedings' means proceedings against a person in respect of an offence, not being appellate proceedings (that is, proceedings on appeal from or for the review of the decision of a court in any proceedings); and 'appellate proceedings' means proceedings on appeal from or for the review of the decision of a court in any proceedings.

2. Criminal, appellate and other proceedings are active within the meaning of Section 2 at the times respectively prescribed by the following paragraphs of this Schedule; and in relation to proceedings in which more than one of the steps described in any of those paragraphs is taken, the reference in that paragraph is a reference to the first of those steps.

Criminal Proceedings

3. Subject to the following provisions of this Schedule, criminal proceedings are active from the relevant initial step specified in paragraph 4 until concluded as described in paragraph 5.

4. The initial steps of criminal proceedings are:

(a) arrest without warrant;

(b) the issue, or in Scotland the grant, of a warrant for arrest;

(c) the issue of a summons to appear, or in Scotland the grant of a warrant to cite;

(d) the service of an indictment or other document specifying the charge;

(e) except in Scotland, oral charge.

5. Criminal proceedings are concluded—

(a) by acquittal or, as the case may be, by sentence;

(b) to any other verdict, finding, order or decision which puts an end to the proceedings;

(c) by discontinuance or by operation of law.

6. The reference in paragraph 5 [illegible] to proceedings include any appeal or [illegible] consequent on conviction [illegible] other than [illegible] under Section 1 of the Powers of Criminal Courts Act [illegible] Section 2 [illegible] of the Criminal Procedure (Scotland) Act 1975 [illegible] (Northern Ireland) Order 1976.

7. Proceedings are discontinued within the meaning of paragraph 5(c) —

(a) in England and Wales or in Northern Ireland, if the charge is [illegible];

(b) [illegible];

(c) in the case of proceedings in England and Wales or Northern Ireland [illegible]

8. Criminal proceedings [illegible] are concluded [illegible]

9. Criminal proceedings in England and Wales or Northern Ireland are [illegible]

[illegible]

[illegible]

(2) [illegible]

(3) [illegible]

(4) [illegible]

Other proceedings or [illegible]

13 [illegible]

[illegible]

13. [illegible]

14. Applies to Scotland only.

Appellate proceedings

15. [illegible]

16. [illegible]

SCHEDULE 2

(Sections 13, 14)

Amendments

PART I

Legal Aid Act, 1974 (c. 4)

1. In Section 28, after subsection (11) there shall be inserted the following subsection—

"(11A) In any case where a person is liable to be committed or fined—

(a) by a magistrates' court under Section 12 of the Contempt of Court Act 1981;

(b) by a county court under Sections 14, 118 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 or [illegible], the court may order that he shall be given legal aid for the purposes of the proceedings."

2. In Section 30, after subsection (4) there shall be inserted the following subsection—

APPENDIX XL

THE ADMINISTRATION OF JUSTICE

ACT, 1960

(8 & 9 Eliz. 2 c. 65)

An Act to make further provision for appeals to the House of Lords in criminal cases; to amend the law relating to contempt of court, habeas corpus and certiorari; and for purposes connected with the matters aforesaid.

[27 October, 1960]

1-10. [Repealed by the Criminal Appeal Act 1968, S. 54, Sch. 7, and the Criminal Appeal (Northern Ireland) Act 1968, S. 54, Sch. 5, S. 10 repealed by the Courts-Martial (Appeals) Act 1968, S. 60, Sch. 6.]

Contempt of Court, Habeas Corpus and Certiorari

11. [Repealed by the Contempt of Court Act 1981, S. 15(4).]

12. Publication of information relating to proceedings in private –

(1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say —

(a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;

(b) where the proceedings are brought under Part VIII of the Mental Health Act 1959, or under any provision of that Act authorising an application or reference to be made to a Mental Health Review Tribunal or to a county court;

(c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;

(d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;

(e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published.

(2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.

(3) In this section references to a court include references to a judge and to a tribunal, and references to a court sitting in private include references to a court sitting in camera or in chambers.

(4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section.

13. Appeal in cases of contempt of court—

(1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt) and notwithstanding any other enactment the provisions of this section shall have effect in substitution for any other enactment relating to appeals in civil or criminal proceedings.

(2) An appeal under this section shall lie in any case at the instance of the defendant and, in the case of an application for committal or attachment, at the instance of the applicant; and the appeal shall lie—

(a) from an order or decision of any inferior court not referred to in the next following paragraph, to the Divisional Court of the High Court;

(b) from an order or decision of a county court or any other inferior court from which appeals generally lie to the Court of Appeal, and from an order or decision (other than a decision on appeal) of a single judge of the High Court, or of any court having the powers of the High Court or of a judge of that court, to the Court of Appeal;

[illegible] appeal]

[illegible] appeal to the Court of Appeal against any decision of the Board of Trade under section [illegible] of this Act, and the Court of Appeal shall have power to make such order as may be necessary for giving effect to any decision of the Board of Trade under that section.

(3) Subject to any rules of court made under this section, any appeal to the Court of Appeal under this section shall be heard and determined by the Court of Appeal in accordance with the practice and procedure for the time being applicable to appeals from the High Court in the exercise of its jurisdiction in relation to matters within the jurisdiction of the Court of Appeal.

(4) In this section "rules of court" [illegible] means rules made by the Supreme Court Rule Committee [illegible] and "the Court of Appeal" [illegible] means the Court of Appeal in England.

[Sch. 1 Pt. I]

[illegible] under [illegible] court [illegible]

(4) [illegible] county court [illegible] of any power [illegible] of a county court under section [illegible] or 1[illegible] of the County Courts Act 1984;

[illegible] under [illegible] subsection (3) of section 63 of the Magistrates' Courts Act 1980;

but do not include references to [illegible] of the Debtors Act 1869 [illegible] Magistrates' Courts Act 1980 [illegible] paragraphs (c) and (d) of that [illegible] sections 63 and 142 [illegible] contempt of court.

(6) This [illegible] in respect of which [illegible] under [illegible] of the Criminal Appeal Act 1968 [illegible] Court of Appeal [illegible] Act.

[illegible] [Repealed [illegible] Act 19[illegible] Sch. [illegible]