

Law Commission
Consultation Paper No 209

CONTEMPT OF COURT

Appendix E: Jurisdictional basis for a court or tribunal to act on a contempt in its face

APPENDIX E

THE JURISDICTIONAL BASIS FOR A COURT OR TRIBUNAL TO ACT ON A CONTEMPT IN ITS FACE

| Court or tribunal | Basis of jurisdiction |
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| Supreme Court | Inherent jurisdiction. See Constitutional Reform Act 2005, s 40(1). |
| Court of Appeal | Inherent jurisdiction. See Senior Courts Act 1981, ss 1, 15. |
| High Court | Inherent jurisdiction. See Senior Courts Act 1981, ss 1, 19. |
| Court Martial Appeal Court | Inherent jurisdiction. See Court Martial (Appeals) Act 1968, s 1(2). |
| Crown Court | Inherent jurisdiction. See Senior Courts Act 1981, ss 1, 45 and <i>Morris v Crown Office</i> [1970] 2 QB 114. |
| Upper tribunal | Inherent jurisdiction. See Tribunals, Courts and Enforcement Act 2007, s 3(5). |
| Employment appeal tribunal | Inherent jurisdiction. See Employment Tribunals Act 1996, s 20(3) and s 36(4). |
| Court of Protection | Inherent jurisdiction. See Mental Capacity Act 2005, s 45(1). |
| Special Immigration Appeal Commission | Inherent jurisdiction. See Special Immigration Appeals Commission Act 1997, s 1(3). |

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| Coroner's court | Inherent jurisdiction. For "inferior courts of record" generally, see <i>Brompton County Court Judge</i> [1893] 2 QB 195, cited at Arlide, Eady and Smith on Contempt para 13-7. For the coroner's court specifically, see <i>R v West Yorkshire Coroner, ex p Smith</i> [1985] QB 1096, [1985] 2 WLR 332 in which the Divisional Court inferred this from <i>A-G v BBC</i> [1981] AC 303, [1980] 3 WLR 109. |
| Transport tribunal | Inherent jurisdiction. For "inferior courts of record" generally, see <i>Brompton County Court Judge</i> [1893] 2 QB 195, cited at Arlide, Eady and Smith on Contempt para 13-7. For the transport tribunal specifically, see the Transport Act 1985, s 117 and Sch 4. |
| Election court | Inherent jurisdiction. For "inferior courts of record" generally, see <i>Brompton County Court Judge</i> [1893] 2 QB 195, cited at Arlide, Eady and Smith on Contempt para 13-7. For the election court specifically, see the Representation of the People Act 1983, s 123(2). |
| Consistory court | Inherent jurisdiction. For "inferior courts of record" generally, see <i>Brompton County Court Judge</i> [1893] 2 QB 195, cited at Arlide, Eady and Smith on Contempt para 13-7. For the consistory court specifically see Ecclesiastical Jurisdiction Measure 1973, ss 81(2) and 81(3). |
| Employment tribunals | Power to make a motion for contempt to the Divisional Court. SI 1998/3132, Rules of the Supreme Court Ord 52 r 1(2). For employment tribunals specifically, see <i>Peach Grey and Co v Sommers</i> [1995] 2 All ER 513, cited at Arlide, Eady and Smith on Contempt para 13-65. The question has been raised whether employment tribunals should have power to act on their own behalf: <i>Bennett v Southwark LBC</i> [2002] EWCA Civ 223, [2002] ICR 881. |

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| Mental health review tribunals | <p>Power to make a motion for contempt to the Divisional Court.</p> <p>SI 1998/3132, Rules of the Supreme Court Ord 52 r 1(2). For mental health review tribunals specifically, see <i>P v Liverpool Daily Post</i> [1991] 2 AC 370.</p> |
| Tax chamber of the first tier tribunal | <p>Possible power to make a motion for contempt to the divisional court.</p> <p>Arlidge, Eady and Smith on Contempt 13-62.</p> |
| County courts | <p>Clause 17 of the Crime and Courts Bill 2012 will amend the County Courts Act 1984 to create a single county court. It will be a court of record.</p> <p>A judge sitting in the county court has inherent jurisdiction to deal with contempts in the face of the court; <i>Brompton County Court Judge</i> [1893] 2 QB 195, cited at Arlidege, Eady and Smith on Contempt para 13-7.</p> <p>A judge sitting in the county court has statutory jurisdiction to commit for contempt where the contempt occurs in the face of the court; s 118 of the County Courts Act 1984.</p> |
| “Qualifying service courts” | <p>Statutory power.</p> <p>Armed Forces Act 2006, ss 309 to 312.</p> |
| Magistrates’ courts | <p>Statutory power.</p> <p>Contempt of Court Act 1981, s 12.</p> |