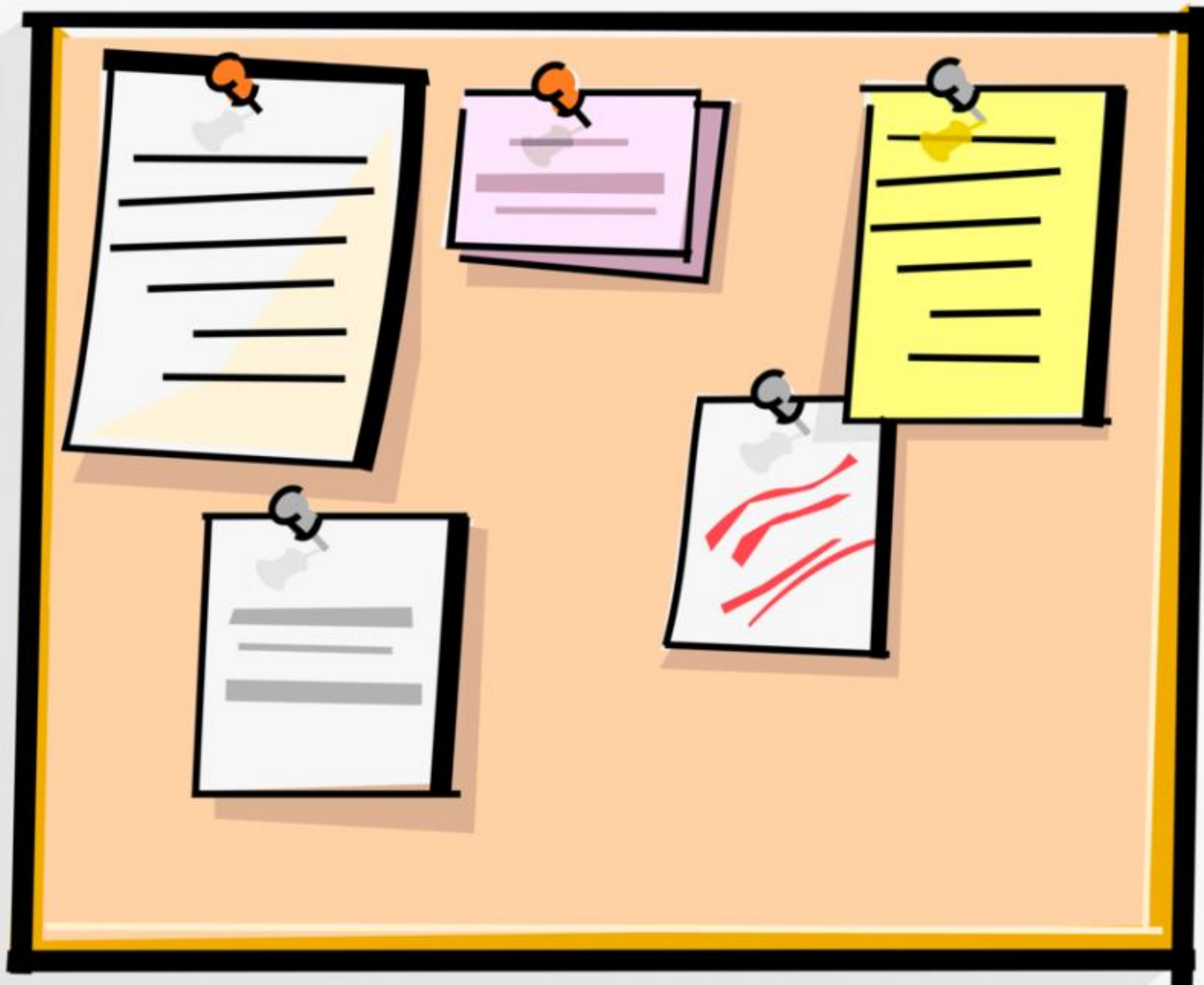


# CURRENT AWARENESS BULLETIN

January – March 2008



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## INTRODUCTION

This publication is designed to inform users of acquisitions by the library within the stated period, and will appear quarterly until further notice.

Under **TREATISES, DIGESTS, ETC.**, the classification number for the location of the publication on the shelves, is included to the right of the listing.

Under **LEGISLATION**, the abbreviation “G.S.” means - Jamaica Gazette Supplement Bills and Acts.

Judgments are arranged by country, then listed alphabetically by names of parties, followed by the court and date of decision. Abbreviations for the courts are as follows:

- P.C. Privy Council
- C.A. Court of Appeal
- S.C. Supreme Court
- R.C. Revenue Court
- F.C. Full Court

Jamaican judgments have been broadly classified to facilitate the user. Headings are indicated in bold letters appearing after the date of decision for each judgment.

Publications of other Caribbean territories are included as and when received.

**Comments:** As we begin to adapt to the new normal, John Gould asks whether it's time to adopt a new approach to ethics

**Specialist:** Employment Ian Smith takes a gender at short, precise, but nonetheless important aspects of both common & statutory

**Procedure and Practice:** Standard of Proof **Adrian Keane** considers jurors should be given a fuller & more accurate direction before returning their verdict.

**Inside Court:** Law Digest

**Profession: Expert Witness-** Expert witnesses at a conference with counsel- a practical guide-compiled by Mark Solon.

conversion in the digital age

## FOREWORD

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BRYAN, DEVON (Administrator of the estate Ian Bryan, deceased) and The Attorney General  
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BUTLER, CRAIG (President Stony Hill Phoenix All Star Football Club on behalf of himself and all the members) v Kingston & St. Andrew Football Association and Ambassador A. B. Stewart Stephenson (President of the Kingston and St. Andrew Football Association on behalf of himself and the members of the Association) and Jerome Spencer (Assistant General Secretary of the Kingston and St. Andrew Football Association on behalf of himself and the members of the Association)  
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### LAW REPORTS

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Enforcement of a Judgment. 10<sup>th</sup> ed./Claire Sandbrook  
London: Thomson, 2007

<The> Law of Contract. 11<sup>th</sup> ed./ G.H. Treitel  
London: Thomson, 2003

## SERIALS

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Starting strong: How I found a niche, built a client base and turned a profit in just one year

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**British Tax Review 2007 No. 5**

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**California Western International Law Journal Vol. 28 No. 1 Fall 2007**

Legal and Institutional responses to Contemporary global threats: An introduction to the U.N. Secretary-General's *High-level Panel Report on Threats, Challenges and Change*

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Imminence and proportionality: the U.S. and U.K. responses to global terrorism

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Involvement overboard: an evaluation of how and why corporate boards have become increasingly active and the problems the activity presents

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- Physicians and torture: lessons from the Nazi doctors *Marcelo N. Vinar  
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- Jungle justice: passing sentence on the equality of belligerents  
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- Transitional justice and the ICC – in “the interests of justice”? *Drazan Đukić*
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- Some issues in misrepresentation *Pearlie Koh*
- Fraudulent insurance claims: recent legal developments *Julie-Anne R. Tarr*
- Reforming non-disclosure in insurance law: the Australian experience  
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- Journal of Legal Education      Vol. 56 No. 3      September 2006**
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Sleeping soundly in your bed? Planning law meets hazardous substances      *Craig Connal Q.C.*

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**Journal of Social Welfare & Family Law      Vol. 29 No. 2    2007**

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**Law Society Gazette****November 1, 2007***Royal billing*

Legal Services Bill receives Royal Assent after government concessions on key issues

*Zimbabwe appeal*

Chancery Lane launches £100,000 appeal to help fund work of Law Society of Zimbabwe

*Smart future*

Smart electronic ID cards for lawyers take step closer to reality with final CCBE guidelines

*Fighting talk*

Young BME lawyers urged to fight for equality of access as Society of Black Lawyers re-launches

*Virtual world*

Test-run of 'virtual court' system in south London over the summer hailed a success

*Time for a change*

Mental health lawyers call for sentencing rethink after research suggests 50% of prisoners have disorder

**Law Society Gazette****November 29, 2007***Society shift*

The Law Society is to embark on an overhaul of the pay and pensions of nearly 1,400 staff

*Leasehold of life*

Access to leasehold documents gives lawyers advantage in HIPs roll-out, Chancery Lane claims

*Top of the tree*

Overall fee income and profits per partner continue to rise at UK's top law firms

*Paying the E-bill*

Firms face late payment after LSC suspends its new e-billing service only two weeks after launch

*Killer fees*

Leading in-house lawyers urge colleagues to curb the growth of fees paid to external law firms

*Privilege position*

CCBE votes to join the appeal against the recent European court ruling on in-house privilege



**Law Society Gazette****January 17, 2008***Advice 'chaos'*

Police station advice 'in meltdown' following extension of the Defence Solicitor Call Centre

*Fraud fears*

Solicitors urge the Land Registry not to let conveyancers take blame for identity fraud

*Shaky juniors*

Junior Lawyers Division vows to counter the 'two-year wobble' solicitors face after qualification

*Hard times*

Firms should prepare for a harder professional indemnity insurance market, warns broker

*Kenya lifeline*

New castle solicitors donate funds to buy food to ease Kenya's humanitarian crisis

*Bench boost*

Judicial appointments Commission seeks to widen opportunities for ambitious solicitors

**Law Society Gazette January 31, 2008***Climate concern*

Law firms are too complacent about the deteriorating economy, consultants warn

*HIPs hell*

Conveyancing solicitors losing clients through the anti-competitive practices of estate agents

*Call holding*

Legal Services Commission asked to put phone-only advice pilot on hold amid call centre concerns

*Open market*

UK lawyers make progress in their bid to open up India's legal services market

*Age-old problem*

Landmark victory for judge in age discrimination case against Ministry of Justice

*Wage war*

Huge salary hikes help law firms gain upper hand over banks for finance lawyers

**Law Society Gazette February 7, 2008***Tag settlement*

Parties to The Accident Group litigation are believed to have settled for around £30 million

*Foreign exchange*

City practices could lose out to international rivals under qualification plans for foreign lawyers

*Panel power*

Criminal law solicitors on the very high cost cases panel allowed to instruct non-panel advocates

*Legal shake-up*

Barking and Dagenham Council is to restructure radically its legal team with a 28-lawyer unit

*Fraud alert*

Solicitors are failing to warn mortgage lenders about suspicious features in property transactions

*Office expansion*

UK law firms have rapidly increased their number of foreign offices in the past year, research reveals

**Law Society Gazette February 14, 2008***LSC cuts £30m*

The Legal Services Commission is to reduce levels of senior staff in 'major transformation'

*Falling short*

Legal Complaints Service looks set to fail four key quality targets imposed by watchdog

*QC panel call*

The QC selection panel has appealed for more solicitor-advocates to apply for silk in 2008

*Intervention plea*

The Solicitors Regulation Authority must speed up its probes into law firms, says leading Labour MP

*New chapter*

Law practices have transformed the way they use legal librarians, report reveals

*Structural shift*

Large international firms could be forced to change their corporate structures, says SRA

**Law Society Gazette February 21, 2008***Fee clampdown*

In-house lawyers set to pare legal budgets in year ahead and force down junior staff rates

*Passage to India*

Bombay High Court could clear the way for foreign law firms to open offices in India

*Knock-on effect*

Best value tendering for criminal legal aid work could have adverse impact on civil and family

*UN-HIP move*

Rouge home information pack providers flouting the law by using invalid title documents

*Risky business*

More than two-thirds of top-30 UK firms face US litigation threat over lack of risk control policies

*Aim-ing high*

Lawyers serving Alternative Investment Market see increase in secondary fundraisings

**Law Society Gazette February 28, 2008***Overtime burden*

Women solicitors say they have to clock up more billable hours than men to compete successfully

*Miners meeting*

Legal Complaints Service head to meet Trades Union Congress to discuss compensation

*Video evidence*

Criminal law solicitors should act quickly to obtain custody suite video footage

*Mortgage fraud*

Solicitors have key role in tackling mortgage fraud as they lend legitimacy to transactions

*Pleural plaques*

UK government called on to consider new legislation on damages after Scottish bill revised

*Arbitration crisis*

Reinsurance solicitors could help alleviate problem of falling number of experienced arbitrators

**Law Society Gazette March 6, 2008***BVT attacked*

Solicitors slam the Legal Services Commission's plan to introduce best value tendering

*Health warning*

Lawyers who are afraid to 'come out' about their mental health problems are costing firms millions

*Higher calling*

Upsurge in the number of solicitors gaining higher rights as legal aid rates diminish

*DIY wills*

A £4.99 do-it-yourself will-making kit goes on sale in 7,000 newsagents this week

*VHCC rethink*

Contracts for very high cost case criminal work revisited as barristers given second chance to sign

*Standard bearer*

Law firms join forces with the Institute of Paralegals to create qualification for secretaries

**Law Teacher Vol. 41 No. 3 2007**

We the people and other constitutional tales: narrative and constitutional meaning

*Paula Abrams*

Using storytelling as a teaching model in a law school: the experience in an Australian context

*Michael Blissenden*

Can successful lawyers think in different languages? Incorporating critical strategies that Support learning lawyering skills for the practice of law in a global environment

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The ethical obligations of lawyers, law students and law professors telling stories web logs

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Fitting stories into professional legal education – the missing ingredient

*Robert McPeake*

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*Susan E. Provenzano & Lesley S. Kagan*

Mediating the evaluative debate: why both parties are wrong and a proposal for settlement

*Kenneth M. Roberts*

**Loyola Law Review Vol. 53 No. 3 Fall 2007**

The *Morse* Quartet: student speech and the First Amendment

*Melinda Cupps Dickler*

The case for the genetic parent:

*Stanley, Quilloin, Cuba, Lehr, and Michael H.* revisited

*Anthony Miller*

**Loyola University Chicago Law Journal Vol. 39 No. 1 Fall 2007**

Welcome to Hazleton! "illegal" immigrants beware:

Local Immigration Ordinances and what the Federal Government must do about it

*Karla Mari McKanders*

Contracting for financial privacy: the rights of banks and customers under the Reauthorized Patriot Act

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**Medicine, Science and the Law Vol. 48 No. 1 January 2008**

The Lund Lecture: what makes a legal system effective?

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*Coke v Bumble* – comments of some aspects of unlawful killing and its disposal

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- Offending in the learning disabled population: a retrospective audit of  
Tayside learning disability service court reports *M. Lynch & M. Black*  
*H. Smith et al.*
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- Section 37/41 Mental Health Act 1983: a study of judges' practice and  
assessment of risk to the public *I. Qurashi & J. Shaw*
- Sudden death while driving a four-wheeled vehicle: an autopsy analysis  
*Y. Motozawa et al.*
- Section 5(2) MHA 1983: results of a three-year rapid cycle clinical audit  
*A. Rashid et al.*
- Trivial trauma, heart disease and medico-legal interpretation of death  
*A. Kohli & K. Mishra*

**New Law Journal**      **Vol. 157 No. 7293**      **October 19, 2007**

- Comment:** Does anyone still care about legal aid? Wonders *Roger Smith*
- Dispute resolution:** Beware false documentation, say *Chris Bryden* and *Michael Salter*
- Criminal /ethics:** *Micheal Zander* Q.C. considers the radical proposals of the recent Nuffield Bioethics report
- Employment:** Do no-strike agreements have claws? Asks *Elaine Banton*
- Data protection:** What constitutes "personal data" in law? *Helen Hart* reports
- Employment/harassment:** The law on harassment at work should be made more coherent, say *Stephen Levinson et al.*
- Family:** What is legally recognized as a "family" today? *Donna Whitehead* reports
- Human rights:** Is there a right to remain silent in speeding offences? *Seamus Burns* investigates
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- Comment/letters:** The government should have done its homework before bombarding schools with *An Inconvenient Truth*, says *Nicholas Hancox*
- Days of yoke:** It may not be fashionable, but justice for all is still worth the fight, says *Geoffrey Bindman*
- Professional:** Post *Akzo*, *Michael Frisby* and *Laura Beagrie* consider the disclosure status of in-house counsel

**UU/employment:** *Trevor Tayleur* explains the workings of the new, streamlined, Qualifications Directive

**Property:** It's time to give chancel repair liability the last rites, says *James Naylor*

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**Comment:** Abortion legislation has remained unchanged for too long, argues *Charles Foster*

**Medico/ethics:** What next now the hybrid human cow has been approved? *Seamus Burns* reports

**Media/privacy:** Should the "Rowling family" have the right not to be photographed in public? *Anna Caddick* reports

**Criminal:** *Adam Straw* presents a practitioner's guide to preventing delay in detention

**Criminal:** *Michael Zander QC* on what he regards as a very unfortunate House of Lords' decision

**Regulatory:** *David Rodwell* reports on initiatives to increase independence within the financial services market

**New Law Journal**      **Vol. 157 No. 7296**      **November 9, 2007**

**Comment:** A flawed Bill has been transformed into a good Act, says *John Ludlow*

**Competition:** Will Microsoft's latest set-back in the courts be good for competition? *Dimitrios Sinaniotis* reports

**Personal injury:** *Colin McCaul QC* peers beneath the surface of *Rothwell*

**Crime/international:** Should we torture terrorist suspects? *Philip Rumney* and *Martin O'Boyle* consider both sides of the debate

**Constitutional:** *Neil Parpworth* presents the case for fixed-term Parliaments

**Right of reply:** Forget the BVC, says *Alex Samuels*, lawyers should qualify as solicitors first

**New Law Journal**      **Vol. 157 No. 7297**      **November 16, 2007**

**Comment:** *Roger Smith* calls on lawyers to lend their voices in support of colleagues currently denied their own

**Employment:** Reconciliation or sell out? *Nick Hurley* and *Will Nash* review the collapse of *Darrell Hair's* discrimination claim

**Mental Health:** Will new government safeguards close the *Bournewood gap*? *David Hewitt* expresses some doubts

**Discrimination/criminal:** Will the new religious hate law help or hinder the cause of freedom? *Steve Gallagher* wonders

**Administrative:** How far do prerogative powers extend? *Nicholas Dobson* reports

**Insurance:** *Lea Brocklebank* considers how Law Commission proposals could affect insurance contract law

**New Law Journal      Vol. 158 No. 7370      January 11, 2008**

**Comment:** Bar chairman *Timothy Dutton QC* discusses his plans for his year in office

**Human rights:** *Alexander Ruck Keene* considers the role of human rights in regulation of care professionals

**Civil and criminal:** Does automatic disclosure mean no more refuge in self-incrimination privilege? *Susan Edwards* investigates

**Family:** How are courts likely to divvy up the spoils of a failed relationship in 2008? Asks *Nick Starks*

**Criminal:** Super ASBOs – a new crime fighting tool or unjustifiable incursion of liberty? Asks *Jill Lorimer*

**Property:** Will abolishing the law of forfeiture make it easier to terminate a tenancy when a tenant defaults? *Chhavie Kapoor* reports

**New Law Journal      Vol. 158 No. 7304      January 18, 2008**

**Comment:** Sadness and anger mark *David Burrows's* decision to stop doing legal aid work

**Limitation:** *Patrick Sadd* examines the legal history underpinning calls for changes to the rules governing limitation

**Construction:** How vulnerable are adjudicators' decisions? *Lisa Sinclair* investigates

**Public law:** The Court of Appeal's decision in *Ware* restores stability to the law on bias, says *Nicholas Dobson*

**Criminal:** Tinkering with established exhumation procedures could get the government into trouble, argues *Steven Gallagher* and *Frederick Cosgrove-Gibson*

**Telecommunications:** *Alistair Craig* considers the compulsory powers to acquire and retain mobile phone masts

**New Law Journal      Vol. 158 No. 7305      January 25, 2008**

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**Law in the headlines:** *David Wolchover* and *Anthony Heaton-Armstrong* pour cold water on the government's rape trial myth-busting proposals

**Right of reply:** Arguments in favour of legalized torture should not go unchallenged, say *Philip Rumney* and *Martin O'Boyle*

**Contract:** *Bear Stearns* represents a costly lesson in contractual principles, says *Paul Nicholls*

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**Comment:** Low company number DNA analysis should only be dangerous for the guilty, says *Charles Foster*

**Criminal:** This issues raised in *R v Campbell* need to be reviewed by the House of Lords, says *Adrian Keane*

**Legal system:** How did the law lords perform in 2007? *Brice Dickson* reviews their performance

**Criminal:** The UK needs to improve its woeful record on combating bribery, says *Eoin O'Shea*

**Family/trusts:** The courts are adopting an inconsistent approach to cohabitee disputes, says *Sarah Greer*

**Procedure:** Small value claims in cross-border disputes should soon be more cost-effective, says *Pablo Cortés*

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**Comment:** The law on suicide is out of kilter with modern society, says *Richard Scorer*

**Immigration:** *Adrian Berry* and *Hina Majid* unravel the UK Borders Act

**Court procedure:** Is the Commercial Court striking back? Asks *Khawar Qureshi QC*

**Procedure:** Should freezing orders prohibit banks enhancing the value of protected assets? *David O'Mahony* reports

**Costs:** The courts are right to restrict the amount of damages leveled against defendants, say *Marcus Thomson* and *Neil Forsyth*

**Medico-legal:** *Seamus Burns* explores the legality of paired transplants

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**Cover story:** *Craig Barlow* and *Jason M. Hadden* consider judicial bias and the flying carpet

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Speakers' corner: The government should think again about tampering with unsafe convictions, says *Peter Ferguson QC*

**Personal injury:** *Nicholas Bevan* explains why *Thompstone* represents a sea change for future care claims



**Charity law:** The public benefit test: what's all the fuss about? Asks *Stephen Claus*

**Mediation/construction:** How do parties know when to mediate? Asks *Jonathan Pratt*

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**Comment:** Working together to transform legal aid is vital, says *Carolyn Ragan*

**Employment:** Increasing mobility of employees is leading to more jurisdictional disputes, says *Juliet Carp*

**Commercial:** *Paul Beevers* welcomes the demise of the rule of 78

**Criminal:** The Criminal Justice and Immigration Bill contains unnecessary defensive measures, says *Dr. Jonathan Rogers*

**Insolvency:** *Michael Salter* and *Chris Bryden* consider the problems left behind by insolvent employers

**Property:** The government's botched roll-out of HIPs is distorting the market, says *Michael Garson*

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Suing Islam: tort, terrorism and the House of Saud *Donald W. Garner*

The revitalization of *Ake*: A capital defendant's right to expect assistance  
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Plea bargaining's survival: financial crimes plea bargaining, a continued triumph in a Post-Enron world *Lucian E. Dervan*

The patent office is promoting shocking new tax loopholes - should the Empire strike back?  
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The significance of Parliamentary Procedures in control of the executive:  
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A Bill of Rights: do we need one or do we already have one? *Francesca Klug*

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- The courts and politics after the Human Rights Act: a comment *Tom Hickman*
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The injustices of government will always be challenged by the next generation of fresh-faced lawyers, says *Kerry Underwood*

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Discrimination and dispute resolution are likely to top the employment agenda in 2008, says *Jean-Yves Gilg*

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**Trespassing revisited**

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Landowners will have to be more reasonable when claiming damages for temporary trespass after *Sinclair*, says *Mark Pawlowski*

**Mediation**

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**100 days of HIPs**

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Industry experts talk about Home information packs (HIPs) and their impact so far

**Data protection**

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New regulations on data retention are likely to put the Information Commissioner between a rock and a hard place, says *Shlomi Isaason*

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*Anderson* demonstrates the courts' willingness to take a robust approach to the entry of unilateral notices without reasonable cause, say *Jonathan Steinert* and *Abigail Cohen*

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Thames Valley firms are intent on staying regional. *Jean-Yves Gilg* reports

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The House of Lords has re-opened the question of causation in manslaughter cases, says *David Rhodes*

**Unrestricted development**

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The *Lawntown* ruling shows how developers can overcome restrictive covenants, says *David Jackson*

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The recent age discrimination ruling in *Palacios de la Villa* does not necessarily mean that *Heyday* is doomed to failure, says *Michael Connolly*

**Update: professional negligence**

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*Spike Charlwood* considers lenders' liability in the credit crunch

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Pre-action protocols are an effective tool to avoid litigation, but they are under-used says District Judge *Robert Jordan*

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Following the HMRC data debacle of recent weeks, *Susan Singleton* considers specific breaches of the Data Protection Act 1998 and clarifies the right to recover damages

**Middleman liability**

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The *Arbory* case has widened the liability of insurance brokers to ensure that their clients are adequately protected when seeking cover, say *Terence Begin* and *Andrew Davies*

**Claim forms**

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The Court of Appeal has recently laid down new principles governing service of the claim form and extension of time, which *Gordon Exall* says will set new challenges for defendants

**Improving attendance**

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The Sentencing Guidelines Council guideline on offenders' non-attendance at court provides a useful set of national standards for advocates, says *Paul Tain*

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Two recent community law cases are affecting trade union rights says *Paul Stanley*

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Responsibility for highway accidents are not straightforward, says *Victoria Handley*

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Cohabitation laws are in need of reform, say *Andrew Davies* and *Sue Haylock*

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The Revenue and Customs have again failed to make the proper disclosure, reckons *Colin Wells*

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*Catherine Sanders* considers the proposals on non-UK domiciles and *Catherine McAleavy* reviews cases on the validity of wills

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New commercial court procedure rules will pose a challenge to litigators says *Luke Hibbert*

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Leeds may have been driving legal services growth but smaller, non-city-based firms are now leading the way. *Jean-Yves Gilg* reports

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The new Local Government Act 2007 aims to deliver greater participatory democracy but will it, asks *Alan Harrison*

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Is mimicking central government the best model for local decision-making, asks *Alan Harrison*

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Reducing the involvement of the Court of Protection in the administration of a patient's finances is laudable but it could lead to higher running costs, says *Stephen Ashcroft*

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Law-abiding heroes or dangerous activists? *Tim Lawson-Crutenden* and *Melanie Loram* examine how the law can try to stop the activities of protest groups

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The *BASF* ruling will act as a stark warning for companies appealing fines. *Paul Stanley* reports

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AIT cases that will affect asylum applications, *Jane Coker* reports

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Professional advisers should consider capping their liability, says *Peter Causton*

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*Alan Harrison* welcomes the return of the byelaws in the Local Government Act 2007

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*David Schmitz* analyses the liability of partners who are negligent but acted in good faith**Taking care with children**

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A single regulator and new incentives for investors will change the face of housing law, says *Alistair Redpath-Stevens***Solicitors Journal      Vol. 152 No. 7      February 19, 2008****View from the bench**

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In Shropshire, firms are reviewing their structures and looking to the post-Clementi future where only the fittest will survive, says *Jean-Yves Gilg*

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*Caron Pope* discusses what will be changing in the immigration rules as the roll-out of a new system of managed migration begins

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*Paul Tain* considers contempt in a Crown Court

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*Damian Greenish* explains the phrase “designed or adapted for living”

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The Hunting Act 2004 has been a disappointment for all concerned, argues *Tim Ryan*

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The Health and Social Care Bill should be welcome, say *John Witt* and *David Firth*

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The ECJ has revisited the conditions for reopening judgment. *Paul Stanley* reports

**Is it extraditable or not?**

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The House of Lords says this is the question to be answered by courts hearing European arrest warrant cases, irrespective of whether events change, as *Michael Caplen* reports

**Confusion over personal data**

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Recent changes in data protection law and privacy rights have confused the picture, says *Helen Hart*

**From CSA to C-MEC**

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Will the government's latest incarnation of the CSA provide a fairer system for child support? With concepts such as private agreements, it's unlikely, writes *Kim Fellows*

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Logic for law students: how to think like a lawyer

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So dark the CON(TU) of man: the quest for a software derivative work right in Section 117

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The principle of "full measure" or 'generosity' approach: a new dimension to constitutional interpretation?

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