

Contents

<i>Acknowledgements</i>	v
<i>Transliteration</i>	vii
<i>Table of Legislation</i>	xvii
<i>Table of Conventions, Treaties etc</i>	xxxii
<i>Documents From The Communist Party of The Soviet Union</i>	xxxiii
1. The State of Russia	1
I. INTRODUCTION	1
A. Russia's struggle for constitutionality	1
B. Russia's place in the world	2
C. The federal dimension	3
D. Language	4
E. The impact of social culture	8
F. Russian legal nihilism	9
G. Families of legal systems?	10
II. CONCLUSION	11
FURTHER READING	11
2. History and Nature of the Constitution	13
I. INTRODUCTION	13
II. THE CONSTITUTION IN PRE-REVOLUTIONARY TIMES	14
A. Early Statehood	14
B. The Mongol Yoke – autocracy takes root	15
C. Centralisation	16
D. Romanovs and the growth of absolutism	17
E. Failed reform under Anna	20
F. A touch of enlightenment? – Catherine II	21
G. Reaction and reform proposals	22
H. Bureaucracy and private law reform	23
I. Emancipation of serfs and reform of the legal system	25
J. Reaction and repression	26
K. Reluctant reform – 1905–06	27

i.	The new Legislature	29
L.	The imperial legacy	30
III.	THE CONSTITUTION DURING THE SOVIET ERA	31
A.	End of empire and establishing soviet power	31
B.	Marxist theory on State and law	32
C.	Function of a Soviet Constitution	35
D.	The Soviet law in individual rights	42
i.	Early Soviet rights	42
ii.	Rights under the 1977 USSR Constitution	44
E.	<i>Perestroika</i>	46
F.	The December 1988 Amendments to the 1977 USSR Constitution	48
i.	The USSR Congress of People's Deputies	48
ii.	The USSR Supreme Soviet	50
G.	The 1989 amendments	52
H.	The 1990 amendments – from a parliamentary to a presidential system	52
i.	Change in constitutional position of the Communist Party (CPSU)	55
I.	March 1991 – end of December 1991 – the USSR Disintegrates	56
IV.	CONCLUSION	57
	FURTHER READING	58
3.	Overview of the 1993 Constitution of the Russian Federation	59
I.	INTRODUCTION	59
II.	BACKGROUND TO ADOPTION OF THE 1993 CONSTITUTION	60
A.	Yel'tsin takes charge in Soviet Russia	60
B.	Russia's Declaration of State Sovereignty, 12 June 1990	61
C.	Constitutional amendments on the way to a new Constitution	62
D.	Independent Russia	65
E.	Draftsmen get to work	66

F. President versus Legislature	68
G. Dénouement	77
III. OVERVIEW OF THE CONSTITUTION'S CONTENTS	81
A. Introduction	81
B. Size and structure	82
i. Preamble	82
ii. Section I: Chapters 1 to 9 – Order of Exposition	82
iii. Section II: Concluding and Transitional Provisions	83
C. Chapter 1: Foundations of the Constitutional System	84
i. Articles 1–7: the basics of the State and society	85
ii. Articles 8–9: economic fundamentals	86
iii. Articles 10–12: separation of power	87
iv. Articles 13–14: ideological diversity and the secular State	89
v. Article 15: direct effect, publication, and the status of international law	91
D. Chapter 2: Individual Rights in the Constitution	93
E. Chapters 3 and 8: Russia as a Federal State; Local Competence	94
i. Russia's federal heritage	94
ii. Federative relations in independent Russia	97
F. Chapters 4 to 7: the Federal Agencies of State Power	101
G. Chapter 9: Amendment Procedures	101
IV. CONCLUSION	103
FURTHER READING	103
4. Executive Power, the President and the Government	105
I. INTRODUCTION	105
II. THE PRESIDENCY	107
A. The President and his role	107
B. Presidential power	112
i. Formation of the executive branch	113
ii. Defining the fundamental direction of activity	121
iii. Supervision and oversight	127

iv. Conciliation	129
v. Implied powers	129
III. THE GOVERNMENT	130
A. The Government Chairman's role and powers	132
B. The Government's role and powers	132
IV. ACCOUNTABILITY	134
A. Presidential accountability	134
i. Election	134
ii. Immunity	136
iii. Impeachment	137
B. Government accountability	139
i. Motion of no confidence	140
V. PARA-CONSTITUTIONAL INSTITUTIONS	141
A. Federal plenipotentiary presidential representatives	141
B. The State Council	143
C. The Public Chamber	145
D. Conclusions on the Para-Constitutional Institutions	148
VI. EXECUTIVE POWER IN THE FEDERAL SUBJECTS	148
VII. CONCLUSION	152
FURTHER READING	154
5. The Legislature and its Formation	155
I. INTRODUCTION	155
II. THE FEDERAL ASSEMBLY	156
A. The structure of the Federal Assembly	156
i. Formation of the Duma	157
ii. Political parties in Russia	163
iii. Formation of the Federation Council	166
B. Legislative activity of the Federal Assembly	174
i. Constitutional amendment	174
ii. Federal constitutional law	175
iii. Federal law	176
iv. The legislative process	177

C. Other powers of the Federal Assembly	181
i. Oversight	181
ii. Other activities	188
III. THE LEGISLATIVE COUNCIL	190
IV. CONCLUSION	191
FURTHER READING	192
6. The Constitutional Role of the Courts	193
I. INTRODUCTION	193
II. THE COURT SYSTEM: OVERVIEW OF THE CONSTITUTIONAL PROVISIONS	195
III. THE DEVELOPMENT OF CONSTITUTIONAL SUPERVISION	200
A. Introduction	200
B. The USSR Constitutional Supervision Committee	201
C. The RSFSR Constitutional Court – 1991 Law	203
i. Establishing the Court	203
ii. Make-up of the Court	205
D. The Constitutional Court of the Russian Federation – 1994 Federal Constitutional Law	206
i. The Court’s Jurisdiction	206
ii. Make-up of the Court	210
IV. THE DOMESTIC COURTS AND THE CONSTITUTION	214
A. The structure and scope of the domestic courts’ hierarchy	214
B. The development of a commercial court system	216
V. TURF WARS	217
VI. JUDICIAL INDEPENDENCE	219
A. The Soviet period – telephone law	219
B. The movement towards judicial independence	221
C. A new telephone law?	224
VII. PROTECTION OF HUMAN RIGHTS	228
A. The development of human rights	228
B. Substantive rights	230
i. Citizen’s rights	231

ii. Unqualified rights	233
iii. Judicial rights	235
iv. Qualified rights	237
v. Duties	238
C. Rights enforcement	239
i. The Procuracy	240
ii. Citizens' appeals (administrative appeal)	241
iii. The Plenipotentiary for Human Rights – Ombudsman	243
iv. European Court of Human Rights	246
VIII. CONCLUSION	251
FURTHER READING	252
7. Conclusion	255
FURTHER READING	259
<i>Index</i>	261

<http://www.pbookshop.com>