

## 3PB Barrister Profile



### Ian Lawrie QC

Call 1985, Silk 2011

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#### Academic Qualifications

LLB (Hons) Warwick University

#### Public Law & Regulatory

Ian Lawrie QC is a criminal and regulatory law specialist with an emphasis and focus on work connected with the marine sector: for example, collisions, pollution and fisheries work. He also leads the Regulatory Compliance Unit of our Public and Regulatory Group. For details of Ian's criminal practice please see his specialist profile.

#### Marine Related Work

Ian's marine experience and expertise covers all vessel types from Tugs to VLCC's and work includes the following areas:

- Advising Owners, Charterers and Deck Officers in respect of Marine Accident Investigation Branch investigations, this includes the declaration taking process part of the investigation, submission and review of Marine Accident Investigation Branch reports.
- Instructed on behalf of Masters, Charterers and Owners in respect of Marine Coastguard Agency investigations and prosecutions. This work covers pollution, breaches of the Merchant Shipping Act 1995 and attendant subsidiary regulations or when appropriate, health & safety legislation.
- Breaches of section 58 and 100 Merchant Shipping Act 1985
- Application and breaches of SOLAS and MARPOL.
- Piracy
- ISM Code application and compliance including advice on auditing and breaches.

Examples of recent marine related work include:

*MAIB v Swanland (2011)*

Acting for owners of ?Swanland? in MAIB inquiry following the vessel?s sinking in the Irish Sea. Dealt with issues to what extent, if at all, MAIB inspectors

can exclude properly appointed legal advisors from assisting crewmembers under investigation by MAIB.

*MCA v Captain Jan Bارسen & MFV ?Andrea?. (2011)*

Defended Dutch master of trawler which collided with German sail training ship in breach of Collision Regulations and section 58(2)(b) Merchant Shipping Act 1985.

*Silver Wind (2011)*

Instructed to advise American Cruise Ship company on disclosure of documents arising from English prosecution of cruise ship passenger's alleged sexual assault on fellow passenger.

*MAIB v Aggregate Industries UK Ltd & MV ?Yeoman Bontrup?. (2010)*

Acted for Aggregate Industries UK Ltd in MAIB investigation into fire and extensive damage onboard (SUL) bulk carrier MV ?Yeoman Bontrup? whilst she was berthed at Glensanda Quarry terminal in Scotland.

*Peel Ports Ltd (Sheerness) v Captain Fincken (2010)*

Prosecuted on behalf of Peel Ports (Sheerness) Ltd the Captain of Rainbow Warrior for breaches of section 15(3) Pilotage Act 1987 and section 21 Medway Ports Authority Act 1973.

Ian launched case stated appeal to the High Court against decision of Chatham MC to dismiss case without waiting for prosecution authority solicitor representative to attend court without having given previous notice of the hearing. The appeal was successful and the decision can be found at [Medway Ports Authority \(Port of Sheerness\) v Captain Michael James Ian Fincken \[2010\] EWHC 2229 \(Admin\) \(30 June 2010\)](#)

*Regina v Vroon Offshore Services Ltd & MV ?Viking Islay? (2009)*

Defended Dutch company who were owners and operators of standby vessel when three crewmen lost their lives through asphyxiation in chain locker. The defendant was prosecuted for breaches of regulation 4(2)(a) of the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997, regulation 6(1)(a) of the Merchant Shipping and Fishing Vessels (provision and Use of Work Equipment) Regulations 2006 and regulation 4 of the Merchant Shipping (International Safety Management (ISM) Code Regulations 1998. This was the first Crown Court prosecution of breaches of ISM Code compliance regulations. The case also raised the issue of the extent to which a court was entitled to take into account the findings of an MAIB report into the casualty as part of the sentence.

Ian's other marine-related areas of practice include:

### **Pollution issues**

- Advising on application for FEPA licence applications.
- Representing harbour/marina clients accused of breaching section 9 Food & Environmental Protection Act 1985.
- Representing clients accused of breaching provisions pursuant to Part VI Merchant Shipping Act 1995 in respect of oil pollution.
- Representing Harbour Authorities prosecuting breaches of Part VI of Merchant Shipping Act 1995.

Examples of recent pollution work:

*MCA v ?Pretty Time S.A & MV ?Pretty Time? (2011)*

Defended company accused of depositing vegetable oil waste over the side of vessel and polluting nearby beaches.

*MNO v A&P Properties Ltd (2010)*

Along with Christopher Parker QC defended company and three company employees for breaches of sections 5(a) and 9(1)(b), 9(2)(c) of the Food and Environment Protection Act 1985 and regulation 25(1)(a) of the Marine Works (Environmental Impact Assessment) Regulations 2007. The allegation being works conducted at Falmouth Harbour without permission.

*MNO v Seasalter Shellfish (Whitstable) Ltd and John Bayes. (2010)*

Defended company and director of shellfishery cultivation company accused of breach of section 5(a) and 9(1)(a) Food & Environment Protection Act 1985. Company and director accused of depositing concrete ramp down beach in breach of section 5(a). Ian successfully argued that the concrete ramp was permitted as it was exempt material and therefore covered by the Deposit in the Sea (Exemptions) Order 1985.

## **Fisheries**

- Offences under the Common Fisheries Policy and attendant domestic legislation, trawler operations, fish licensing and breaches of the Merchant Shipping Act 1995.
- Confiscation proceedings against fishermen under the Proceeds of Crime Act 2002.

Examples of recent work:

### *Northbay (2011)*

Instructed to advise as part of diligence exercise by purchasers and purchaser's bank in respect of proposed purchase of pelagic trawler company based in Scotland. Specifically asked to advise on potential liability arising from extant POCA proceedings for current part owners of vessel still before the High Court in Scotland. Assisted by Oliver Powell of chambers.

### *SETA 70 (2011)*

Instructed to advise and assist World Bank funded fishery consultants with evidence collation and subsequent prosecution of Korean trawler for conducting illegal fishing in West African waters. Also giving advice on evidence required for submission to European Union in respect of transshipment of illegal fish from West African waters to fish auctions within the Canary Islands.

### *MNO v Foreland Fish [A Partnership] (2010)*

Defended Fish selling partnership and partners in respect of breaches arising from failures to submit copies of sales and transportation notes pursuant to Common Fisheries Policy as enacted under article 3[1] Sea Fishing [Enforcement of Community Control measures] Order 2000. There were additional breaches pursuant section 4(6) Sea Fishing (Conservation) Act 1967. Ian also conducted confiscation proceedings arising from these offences.

### *Eastern Sea Fisheries Joint Committee v William Searle & Kelvin Childs (2010)*

Legal argument over issue of autrefois acquit in respect of allegations arising under article 19 of EC Council Regulation no.850 of 1998 as enacted and enforced via section 3(2) of Sea Fishing (Enforcement of Community Conservation Measures) Order 2000.

### *Cornwall Sea Fisheries Committee v Mark Powell & Clinton Powell & MFV 'Golden Fleece' (2010)*

Abuse of process argument in respect of summons brought in respect of alleged breaches of paragraph 4 of the Cornwall Fisheries District Methods of Fishing (Dredges) Bylaw 1996 and section 11(2) Sea Fisheries Regulation Act 1966 and article 3(1) of the Sea Fishing (Enforcement of Community Control Measures) Order 2000 and article 1 Commission Regulation 2807/83

## **Other linked Regulatory Work**

Ian also acts and advises on areas linked to regulatory work such as inquests, consultations etc.

## **Inquests:**

- Acted for USA based oil exploration company where crewmember died from malaria. Issues concerning quality of care in respect of malarial risks on vessel in West African waters. Family of deceased seeking neglect verdict.
- Instructed to represent Oxford County Council in respect of fatal scalding of profoundly disabled young woman.

Examples of other regulatory work:

### *Seafarers Rights International (2012)*

Instructed by Seafarers Rights International to assemble response as part of consultation process by IMO Legal Committee who are requesting

submissions in respect to collating evidence of crimes committed don the High Sea.

#### *Seafarers Rights International (2012)*

On instructions from Seafarers Rights International drafted comprehensive guidance manual for deck officers and crewmembers in respect of MAIB, MCA and police investigations and prosecutions. Assisted by Oliver Powell of chambers.

#### *MAIB Regulation Changes (2012)*

Instructed to comment as part of consultation process in lead up to proposed change in MAIB investigation regulations 2005.

#### *SPP Process Technology Systems Ltd (2012)*

Advised company of compliance with Carbon Reduction targets pursuant to the CRC Energy Efficiency Scheme and further the extent to which the company could utilize prior Climate Levy agreement from previous factory site following rebuild on new site.

#### *Oxford County Council v Harmer (2012)*

Prosecution of builder under regulation 3(3) and regulation 8(1) of Consumer Protection from Unfair Trading Regulations 2008. Large scale investigation into 7 instances of breaches under the regulations and involving claims for remedial work or overcharging in excess of £100,000.

#### *Berthon Boat Company Limited Sembcorp Bournemouth Water Limited (2011)*

Advised Berthon Boat Company in respect of possible challenge to inappropriate revised fluid categorisation pursuant to the Water Supply (Water Fittings) Regulations 1999 and subsequent notice issued by water company under section 75 of the Water Industry Act 1991.

#### *Oxford County Council v Jill Crozier (2011)*

Advising Oxford County Council on health and safety aspects of investigation into death of young lady whilst in the residential care of OCC.

Ian is available to give advice at short notice 24 hrs a day, 7 days a week.

### **Cases of note:**

#### Medway Ports Authority (Port of Sheerness) v Captain Michael James Ian Fincken [2010] EWHC 2229 (Admin) (30 June 2010)

Mr. Justice Moses agreed with appellant's submissions that Chatham Magistrates' Court had acted unfairly in dismissing case when the court had not given the prosecutory authority proper or adequate notice of hearing.

#### *MFA v Barnes (2008) 11th November EWC*

Total costs and fines of £21,500 reduced to £40 on appeal. Issue raised as to the extent fines and costs should be imposed on top of significant confiscation order.

#### *DEFRA v Joy & Bossom [2005] EuLR 765*

Challenge to DEFRA in respect of variable monthly catch limits for under 10 metre fishing vessels.

#### *HSE v MV 'Armana' Ltd 2005 1 Cr.App R (S)*

Appeal on behalf of company fined for breach H&S breach. Fine reduced from £40,000 to £15,000.

### **Articles & presentations**

Ian has written articles and given presentations on areas of regulatory law including:

- Given joint presentation, along with Oliver Powell of chambers, to the MCA enforcement branch in Southampton. The topics being tips on file preparation and case presentation. (2012)
- Given presentation to Fishery Officers at Sea Fishery Committee Conference on court procedure and legislation. (2011)

- Given one day presentation to Oxford Trading Standards in respect of evidence gathering during investigations and preparation of papers for trial. (2011)
- Instructed to submit general advice to the Admiralty Solicitors Group advising on issue of MAIB claim that they had the power to tape record statements/declarations pursuant to sections 267(8) and 259(2)(c)&(e) Merchant Shipping Act 1995. The advice also reviewed the future potential impact of the relevant provisions set out in the, yet to be implemented, EU Directive 2009/18/EC. This directive sets out the harmonization of fundamental principles governing the investigation of accidents in the maritime transport sector within the European Union. (2009)
- Ecocide Mock Trial-30th September 2012. Ian was instrumental in arranging a mock trial held at the Supreme Court trying the offence of Ecocide. The new law has been proposed to the UN by British Environmental Lawyer, Polly Higgins and would make CEO's of corporations whose industrial operations caused widespread and lasting environmental damage accountable for the crime of ecocide. The proposed offence would be an international crime.

Christopher Parker QC led Adam Hiddleston performed the role of the defence team and both were ?instructed? by Ian Lawrie QC. The prosecution team was lead by Michael Mansfield QC, leading Jane Russell, both of Tooks Chambers and Steven Powles of Doughty St Chambers.

Michael Norman of 3PB played the role of the judge.

The trial lasted a full day and was live streamed via Sky News and filmed as part of a documentary. The documentary can be viewed on [You Tube](#)

For full details of the days proceedings see <http://www.3paper.co.uk/newsarticle/528>

The indictment alleged 3 counts of ecocide pursuant to section 1 of a Ecocide Act which was now in place within national jurisdiction following its enactment within international law.

The jury returned verdicts of not guilty to count 1 and guilty (unanimous) on counts 2 and 3; sentence was adjourned.

The trial attracted media attention:

- The Independent
- The Financial Times
- The Guardian

[Ecocide Mock Trial Transcript Link](#)

### **Professional Qualifications and Appointments**

- Recorder

### **Professional Bodies**

- Association of Regulatory & Disciplinary Lawyers
- Criminal Bar Association
- United Kingdom Environmental Law Association (UKELA)