

Welcome to the First issue of our Journal

Hopefully by the time you read this sunny weather will have returned, but as I look out of my window on an extremely grey August morning Summer still seems far away!

It's been a busy last few months at Mackinnons and I thought I'd share some news. Our Personal Advice, Property and Employment departments were shortlisted for the prestigious Scott & Co Law Awards. Following on from our Top Ranking by Chambers, the fact that we were shortlisted in 3 categories made us justifiably proud.

Earlier this year Katie Williams was promoted to Partner from her previous role as Associate within the Firm. Katie leads our expanding Employment team which continues to thrive. Congratulations are also in order for Kirstin McPherson who became fully qualified as a solicitor at the end of May and who has agreed to stay with the Firm as a qualified assistant.

We have been lucky enough in recent months to have been involved in various weighty bits of legal work in all our core areas and long may that continue for the rest of 2012 and beyond.

Bruce Craig *Managing Partner*

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BIMCO Standard Contract for Offshore Wind Farm Support Vessels

As a response to the increasing number of offshore wind farm projects undergoing planning and in the process of development and construction, and future maintenance requirements, BIMCO is developing a standard time charter contract ("WINDTIME") for offshore wind farm service vessels.



Morag Christoffersen - Associate

WINDTIME is based on the SUPPLYTIME 2005 contract and has been drafted with significant input from industry stakeholders including operators, service providers, shipbrokers, insurance and legal representatives. In November 2011 a BIMCO sub-committee considered various matters particular to the offshore wind farm industry to be addressed in WINDTIME and discussed several key issues such as:-

- Requirement for a pre-delivery HSQE vessel audit;
- Obligation for owners to inform charterers of vessel's ETA at place of delivery;
- Liquidated damages provision in relation to delays beyond the cancelling date; and
- Insurance and liability mechanisms.

At a meeting in Singapore on 23rd April 2012 the BIMCO Documentary Committee reviewed a first draft of the WINDTIME time charter party. The Committee provided feedback and suggestions which will be relayed to the drafting team. It is anticipated that a final draft will be ready for adoption in November 2012.

Liquidation v Administration

The saga of the administration and liquidation of Rangers has brought into focus both UK company law and how corporate insolvency is dealt with in Scotland. The vagaries of insolvency law have moved from being discussed only by a select band of lawyers, accountants and insolvency practitioners to a topic of general interest discussed by all and sundry. However, there appears to be a great deal of confusion in relation to the status of the main procedures.



Martin Sinclair - Associate

In Scotland, a company is insolvent when its liabilities exceed its assets or it is unable to pay its debts as they fall due. Liquidation (the winding-up of a company and sale of its assets to pay creditors) is the most used form of insolvency proceedings. That process can either be voluntary or enforced by the courts but, either way, the liquidated company will no longer exist.

The aim of administration, however, is to rescue the company as a going concern or to achieve a better result for creditors than would have been the case had the administration not been in place. It also prevents creditors from taking any action against the company while the administrator is in place. On conclusion of the administration, the company may be restored, liquidated or dissolved.

The Mackinnons' Dispute Resolution team is routinely involved in debt recovery work and regularly assists our clients in matters of this nature. If you wish to discuss matters further, please contact our team on 01224 632 464.



Since 1994, Mackinnons have been delighted to be home to the Royal Norwegian Consulate and Royal Danish Vice-Consulate in Aberdeen and we see these roles as fitting exceptionally well with our core business. Partner Keith MacRae is Norwegian Consul and Danish Vice-Consul and is assisted in the running of the Consulate by Fiona Stevenson, who has been Norwegian Vice-Consul since 2001.

Since then, Fiona has become one of the UK's leading experts in the administration of Norwegian Maritime matters and, in recognition of her outstanding Consular service, she was awarded the Royal Norwegian Order of Merit Knight's Cross. This award is presented to foreign nationals, Norwegians living abroad and diplomats in recognition of their outstanding service in the interests of Norway.

Fiona is pictured receiving her award from Ms Grethe Knudsen, Royal Norwegian Consul for the UK.



Business Immigration Issues

The Government has pledged to reduce net migration from the hundreds of thousands to the tens of thousands. It aims to achieve this by tightly controlling the quantity and quality of sponsored skilled workers entering the UK to take up employment and by making it more difficult for these workers to permanently settle in the UK.

Anyone who wishes to live and work in the UK (who is a non-EEA national) must apply for leave to enter and work under one of the categories of the points based assessment system. This system was introduced in 2008 to ensure that immigration is only permitted where it is of benefit to the UK. The relevant category for the majority of workers is Tier 2 (General) which applies to skilled workers. Under this category, the worker must be employed by a UK business and the business must be licensed by the UK Border Agency (UKBA) to act as a sponsor of migrant workers. The UKBA issues certificates of sponsorship to the sponsoring employer subject to strict criteria being fulfilled. In April 2011, a temporary cap on the number of certificates that will be issued annually by the UKBA was introduced. This was set at 20,700. It has recently been announced that this cap will remain in place until at least April 2014. The worker must have a certificate allocated to him/her before making the application for permission to work in the UK.



Katie Williams - Partner

The job in question must not displace a UK resident: it must either be on the Shortage Occupation List (a formal list created by the UKBA which is updated periodically to reflect current skills shortages in the UK economy), or remain vacant after the employer has advertised the position. To ensure that only the brightest and best migrants are permitted to work in the UK, the job must be at graduate level. From 14th June 2012, this means at NQF6 or above and so unskilled or manual workers will be excluded. The job must also meet the specific salary requirement for that type of position as set out in codes of practice published by the UKBA and the migrant must have an intermediate command of the English language and have sufficient funds to maintain themselves upon arrival to the UK. From 14th June 2012, the worker must have at least £900 in their bank account.

Migrant workers who are granted permission to work in the UK can ask to extend their stay in the UK up to a maximum of 6 years. When their permission to work ends, they can apply to permanently settle in the UK and can continue to work until their application has been considered. From April 2016, it will be more difficult for migrant workers to obtain permission to permanently settle in the UK as a minimum salary threshold of £35,000 will be imposed in an attempt to break the link between temporary work and automatic settlement in the UK. If the worker's application to permanently remain is refused or if the worker chooses not to make an application to stay, they must immediately leave the UK and cannot make an application to return for a minimum of 12 months. This "cooling off period" is a new development in immigration law and it is anticipated that it will be strictly enforced. Employers who sponsor migrant workers in long-term roles should therefore be alive to the real possibility that workers will be locked out of the UK for a year upon expiry of their permission to work in the UK.

New UK Fisheries Management System

Fisheries Administrations in the UK have recently announced agreement on a new Concordat for the management of the UK's fish quotas and licences. This will allow the English Marine Management Organisation, Marine Scotland, the Welsh Assembly and the Northern Ireland Executive ('the Administrations') to develop tailored quota and licensing arrangements for their individual fleets. This will replace existing licensing and quota management arrangements with annually agreed shares of UK quotas being allocated to the Administrations for distribution to their fleets.



Graham Jones - Partner

The important features of the Concordat are:

- the issue of fishing vessel licences may be subject to new conditions and each Administration will only licence vessels registered within its territory;
- vessels registered in one area but administered from another will, by 1st October 2012, be required to change their area of registration or administration so that registration and administration are aligned. Fishing vessels must, as a general rule, be administered from the district in which they primarily fish;
- vessels shall only be permitted to change Administrations where there is a genuine change in their fishing pattern, provision of services or home port;
- all allocations shall remain UK quota;
- the Administrations shall comply with all relevant EU obligations and failure may result in penalties being imposed;
- the Administrations may impose individual licensing conditions;
- vessels shall not be hindered from becoming a member of the Producer Organisation of their choice;
- there are no new restrictions on Producer Organisation membership. They can therefore receive quota from more than one Administration and there will be no restriction on vessels licensed by one Administration fishing against quota received by a Producer Organisation from another;
- there will be no restrictions on the movement of FQA units throughout the UK although individual Administrations do have scope to introduce such restrictions. There will be a publically accessible register of FQA holdings; and
- although Administrations consider that FQA holdings do not amount to a right to quota, they recognise the right to trade FQA's and quota.

If you have any concerns or queries about how these new arrangements may impact on your vessel, please discuss with your usual contact at Mackinnons.

More than just Marine

Mackinnons are internationally renowned as experts in Marine law. However, we are more than just a Marine firm. Our offices at Cults and Aboyne offer a range of personal advice services. Headed by Partner Pat Gray, our dedicated teams offer a range of services to suit individual needs.

Our Property team has a detailed knowledge of the local market and offers expert advice on selling, buying or leasing your property which ensures the process is smooth and stress free. Our marketing package is "second to none" and with our extensive local and national mailing list of active buyers we can offer our clients maximum exposure to a much wider market.

If you wish to lease your property, our approachable team provides a wide range of property management services, from full factoring through to general market advice.

The team's expertise is not restricted to residential property. Our business law team has a wealth of knowledge in relation to commercial property transactions, and we are also able to advise in relation to rural and agricultural property.

Our Personal Advice team offers sensitive legal services for private individuals. Our aim is to make life easier for you, helping you to make informed decisions when planning for your future. We believe in developing a strong relationship with our clients, which allows us to better advise you.

Contact our Property and Personal Advice teams on 01224 868687 or 013398 87665.

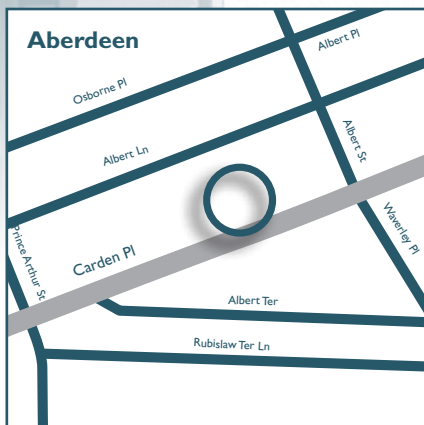


Pat Gray - Private Client Partner

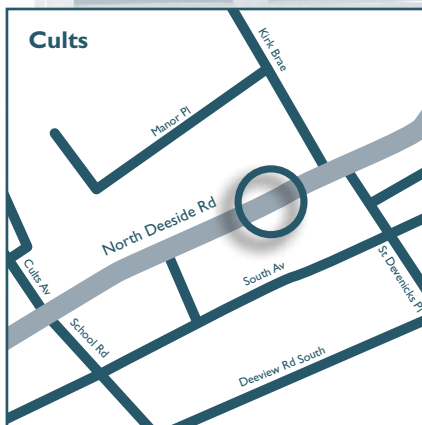
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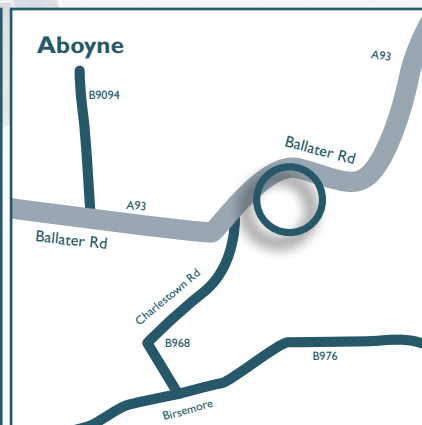
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