

AIM Rules – The rules published by the London Stock Exchange which set out the rules and responsibilities in relation to companies admitted to AIM.

Companies Acts 1985 and 2006 – The Companies Act 2006 received Royal Assent on 8 November 2006. When fully implemented by late 2009 the majority of the 1985 Act will have been repealed.

Combined Code – The corporate governance recommendations for UK listed companies, available on the website of the Financial Reporting Council.

Prospectus Rules – Implement the Prospectus Directive and set out the initial disclosure obligations for issuers of securities that are offered to the public or admitted to trading on a regulated market in the EU.

PLUS Rules for Issuers – Set out the admission and disclosure responsibilities of companies on the PLUS-quoted segment of the market.

FSA Handbooks – A publication by the Financial Services Authority which sets out all the rules and guidance made by the FSA under the Financial Services and Markets Act 2000.

Biography

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Maritime Law Sources

Abstract: This article by Janice Clarke of Holman Fenwick Willan covers the basic materials required for a shipping law library (both hard copy and online) and then addresses how to answer some of the queries most frequently received by the shipping law librarian. The emphasis is on specialised sources.

Keywords: shipping law; information sources; law firm libraries

Introduction

In 1995 I prepared a piece on sources of information in international maritime law and it is interesting to consider how practitioners' needs have changed in those 13 years. My conclusion is that the needs have changed little, but the means of satisfying them have changed a lot. It will come as no surprise that electronic resources, which are

now used by even the most technophobic lawyer, featured little in 1995. At that time, they tended to be a tool used by the librarian on behalf of the rest of the firm. In 2008, the shipping lawyer wants a soft copy of everything, to make it easier to forward to colleagues and clients, but the die-hard still likes to read something from paper.

In this article I shall first cover the basic materials for a shipping law library (both hard copy and online) and

then address how to answer some of the queries most frequently received by the shipping law librarian. My emphasis is on specialised sources. General tools like BAILII, LNB and Westlaw will inevitably also be of service but sometimes lack the level of detail required by the specialist shipping lawyer.

The basic shipping law library

No matter how many electronic services are offered, the shipping lawyer always requires hard copy materials to actually read in depth. These will often be read while travelling, since long haul flights are a regular part of the job. I would categorise needs as follows:

- Textbooks
- Periodicals
- Law reports
- News

Nothing new here then!

Textbooks

Certain books are so popular that they are rarely found on the shelf. The old favourites are the ones that are always asked for (even if they haven't been updated for years!). Needs differ according to the area of maritime law the practitioner specialises in. The "wets" deal with casualties, collisions and salvage, whereas the "dry" lawyers concentrate on contracts for carriage of goods, charterparties etc. The "wets" have less of an appetite for textbooks than the "drys", partly perhaps because there is less published. In our firm, many of those on the "wet" side are ex-mariners and I get the feeling they would rather be in there on board ship, getting their hands dirty, than sitting around reading a book!

The following titles are some of the most frequently used and provide a good cross-section of topics:

- *Admiralty Jurisdiction and Practice* (Meeson, 2003)
- *Brice on Maritime Law of Salvage* (Brice, 2003)
- *Carver on Bills of Lading* (Treitel, 2005)
- *Enforcement of Maritime Claims* (Jackson, 2005)
- *Law of Shipbuilding Contracts* (Curtis, 2002)
- *Laytime and Demurrage* (Schofield, 2005)
- *Limitation of Liability for Maritime Claims* (Griggs, 2005)
- *Scrutton on Charterparties and Bills of Lading* (Boyd, 1996)
- *Ship Sale and Purchase* (Goldrein, 2003)
- *Time Charters* (Wilford, 2003)
- *Voyage Charters* (Cooke, 2007)

Informa have now made a number of their titles available on their online service *i-Law*. This provides an ideal means of searching, even if lawyers are still reluctant to actually

read the text on screen. It also enables access for a greater number of lawyers than would otherwise be catered for.

Periodicals

It is essential to supplement a shipping law library with subscriptions to update professional knowledge. In this section, I refer to those periodicals which deal specifically with shipping law. Shipping lawyers also need trade journals, to keep up with industry developments affecting clients. I deal with these below in the News section.

In common with other areas of law, the number of shipping law titles available has increased over the last few years. Generally speaking, it is the longer established titles which hit the spot. *Lloyd's Maritime & Commercial Law Quarterly*, published by LLP, is undoubtedly the best "serious journal" in the field. Each issue has a useful division between shorter case notes and longer articles. It is available via the electronic service *i-Law* from 2000.

Of the newer titles, *Shipping and Trade Law* (monthly, also from LLP) is popular, as is bi-monthly *Shipping & Transport International* from Guthrum House (a niche publishing company in the shipping field).

Law reports

General series of law reports will contain some cases of interest to the shipping lawyer, but the preferred series by far is *Lloyd's Law Reports* from LLP. They are widely recognised as being the best source for maritime and commercial cases. Cases are primarily from the UK courts, but other jurisdictions are occasionally included, especially common law jurisdictions like Australia, Canada and South Africa, as well as the European Court of Justice. They are published fortnightly in hard copy and are also available on *i-Law*, where they are supplemented by *Lloyd's Law Reports Plus*. The latter claim to contain judgments "as soon as they are available", although there is still usually a delay of some weeks. The most important of these cases then appear in the printed copy of *Lloyd's Law Reports* and also in the online version, while others remain on *Lloyd's Law Reports Plus*. *i-Law* subscribers can register to receive email updates.

Lloyd's Maritime Law Newsletter, published fortnightly by LLP, has been very popular with shipping lawyers since it started publication in 1979. Whilst not a series of law reports in the traditional sense, it is far more timely than *Lloyd's Law Reports*, with cases usually appearing a couple of weeks after judgment. Coverage is very similar to *Lloyd's Law Reports*. Each issue is usually only four pages long, with four or five case summaries, making them very digestible for the busy lawyer. It also has the distinction of being the only publication to summarise London maritime arbitration awards, which are almost impossible to find elsewhere. Details of the parties to arbitrations are not provided, but a reference number is assigned to each case, by which they are universally referred to. *Lloyd's Maritime Law Newsletter* is available on *i-Law*.

News

Every lawyer needs to keep abreast of news in the industries in which his clients operate. In the shipping world, *Lloyd's List* is the preferred daily paper, for its excellent coverage of shipping, insurance and trade news. This is now available via lloydslist.com, where subscribers can also enjoy a daily email alert. Subscribers to the hard copy automatically receive a password for the website. This covers the last seven days – a separate subscription is required for the archive.

Lloyd's List started publication as long ago as 1734, in Edward Lloyd's London coffee shop. *TradeWinds* only started in 1994, but very quickly made a reputation for itself. It reports on worldwide events in all areas of the shipping industry. It is published in Norway, but distributed in over 100 countries. It is also available online, with a daily email newsletter containing breaking news, which I find particularly useful.

Unlike the above two titles, *Fairplay* is published weekly. It describes itself as an "international shipping weekly". It is another longstanding title (established 1883), popular with shipping lawyers. It also provides a daily email service, which is very highly regarded. The journal itself is also available online and this service carries news that is updated throughout the day.

Frequent shipping enquiries

Although fellow information professionals will know that we can and do get asked to find almost anything under the sun, there are nevertheless certain recurring themes in the enquiries received. In common with other law firm libraries, we increasingly find we are asked for commercial information of all kinds. For reasons of space, I have selected the following as being the areas of most frequent enquiry:

- Ships and shipowners
- Casualties and detentions
- Ship movements
- International Conventions
- Standard shipping forms

Ships and shipowners

This is bread and butter stuff. We receive a constant stream of requests for information about ships and shipowners, although all our lawyers worldwide have access to the necessary tools and many of them do use them regularly themselves.

Perhaps the most frequent enquiry is "who owns this ship"? This is not always as straightforward as the layman might think! There are many different kinds of ownership, but the most important is the beneficial owner. The beneficial owner is the person or company with the right to

sell or dispose of a ship or to transfer shares in a ship. It is important to use a source that provides this information. Registered owner and managers are also important. Often the lawyer will also need to have details of the entire fleet of the shipowner in question. The physical characteristics of the ship may be needed. What sort of ship is it? What tonnage? As well as a host of related information. The P&I Club with which the ship is entered will be essential. And, as often as not, the lawyer will want not only the latest information, but the facts at a specific point in the past as well.

Hard copy sources include *Lloyd's Register of Ships*, which is particularly strong on physical characteristics. This is another long-standing publication, established in 1764. It is published annually by Lloyd's Register Fairplay. It provides information on all sea-going, self-propelled merchant ships of 100 GT and above. Not cheap at £1,100 for the current three-volume set, it provides an excellent reference source when a collection is built up over a number of years. As an annual publication, it is inevitably out of date when it arrives with a very heavy thud on your desk, but every purchase also includes *Shipfinder Online*, an internet service providing updates to the information contained in the bound volumes.

A companion volume to *Lloyd's Register of Ships* is *Lloyd's List of Shipowners and Managers*, also published annually. It is a much slimmer single volume, at a third of the price, concentrating on ownership information without all the additional details of the ship itself.

The other hard copy source which is considered a "must have" is *Lloyd's Confidential Index*. This is published by Lloyd's MIU, a division of Informa PLC. Its strength has always been the inclusion of details of the beneficial owner. It is published twice a year and costs a breathtaking £2,400. Like *Lloyd's Register of Ships*, it has a long-established history, dating back to 1886. It covers rather fewer vessels than *Lloyd's Register of Ships*, but those omitted will generally be smaller ships of less interest to large commercial firms.

Hard copy cannot compete with online sources where ships and shipowners are concerned because it is vital to have the very latest information. There are a number of options almost, if not quite, "to suit every pocket".

At the bottom end, *EQUASIS* is free, and you can't get much cheaper than that! It is an internet service developed by the European Commission and the French Maritime Administration. Its main objective is to reduce sub-standard shipping, so it concentrates on safety-related information. Registration is required, but there is no charge. It does not produce new information on ships; rather it collates information from public authorities and industry organisations and makes it accessible on a single platform. Ship characteristics and ship management information are the two main parts of the ship record on *EQUASIS*. Although it in no way compares with the sophisticated systems which I describe below, it is my view that it's not at all bad for free.

The heavyweights in online shipping information are:

- *Lloyd's MIU*
- *SeaWay*
- *Lloyd's Register Fairplay Internet Ships Register*
- *SeaWeb*

The first two are from the Lloyd's MIU stable, and the latter two from Lloyd's Register Fairplay. I shall not mention the entire capability of each service, since I am concentrating here on the frequent enquiries outlined above.

Lloyd's MIU was previously known as *Seasearcher* (and the same confusion reigns over the name as does for LNB and its services of the same name). It includes information on vessels and companies. The cost of the service depends on what information you subscribe to and how many licences you obtain. It lists every vessel over 99gt. It includes details of beneficial owners.

SeaWay is a CD service that can be networked. The data derives from *Lloyd's Confidential Index* and it is updated every four weeks. As well as a series of standard reports, there is also a very sophisticated advanced search facility which enables a user to build his own report using as many criteria as he needs. It was designed in partnership with British Marine Managers Ltd. There is also an internet version if currency is an issue.

Lloyd's Register Fairplay Internet Ships Register (ISR) is a service covering commercial ships over 299gt and their owners, operators, managers and builders. The *ISR* may be considered the economy service, whilst *SeaWeb* is the more sophisticated offering. Both are effectively online versions of *Lloyd's Register of Ships*, with *SeaWeb* covering a greater number of ships (100 gt and above). Both provide information on ships, companies and shipbuilders and *SeaWeb* has a greater number of optional extras.

Casualties and detentions

The shipping lawyer will also require information on vessel casualties, whether they are major collisions that hit the headlines, or just scrapes. If he can get this information in "real time" this will give him a definite edge. Under the Paris Memorandum of Understanding on Port State Control, when deficiencies are found during inspection of a ship, it may be detained until the deficiencies are rectified. The maritime lawyer needs to be aware of this, and will often ask for details of what the deficiencies were.

For those to whom the information isn't crucial, the old-fashioned hard copy sources may suffice. The *Lloyd's List* newspaper provides a casualty report towards the back of the paper each day, in vessel name order. It also includes other relevant information, for example details of ship arrests.

Lloyd's Casualty Week is effectively a weekly cumulation of the information in *Lloyd's List*. It was once issued in hard copy and magnificent bound volumes still grace our library shelves. It is now emailed every Friday as a pdf.

If the need for this information is time critical, an online service is a better resource. *Lloyd's MIU* and *SeaWeb* both cover this area. *Lloyd's MIU* also offers *Lloyd's Casualty Reporting Service*, under which they email subscribers details of marine casualties as they happen. Subscribers can specify their own criteria for this, e.g. casualties occurring in a certain part of the world, or casualties to ships sailing under a particular flag. Emails are usually received within hours of the occurrence of the incident.

Ship movements

The need to know the latest whereabouts of a ship is invariably the result of a lawyer anticipating its arrest on behalf of a client. It is also sometimes necessary to establish the trading pattern of a ship, in order to anticipate its next port of call. A historical record of a ship's movements is often of use when trying to prove the location of a vessel at a particular point in time.

There are hard copy publications on the market, for example *Lloyd's Shipping Index*, which is a weekly publication. But anyone serious about finding a vessel really needs an online service. *Lloyd's MIU* and *SeaWeb* both offer movements data. In recent years, both have added Automatic Identification System (AIS) functionality, which makes the location of a vessel a much more precise operation. Ships transmit a signal which is picked up on a receiver and transferred to the system. Subscribers can note the location of the vessel and even pin point it on a map, where it can be viewed in the context of other vessels in the locality. We have come a long way from ringing up the harbour master and asking him if he wouldn't mind looking out of the window!

A lawyer unwilling or unable to check one of these systems for himself every day can use a vessel tracking service - or ask the Library to do it for him! Generally a lawyer will require monitoring of the entire fleet of a particular shipowner, not just a single vessel. At HFW we normally have a list of over 100 vessels at any one time, which we monitor on a daily basis. This is made a simple process by a facility on the service to which we subscribe which means we don't have to enter each vessel individually every time. There are also several commercial providers, such as Dynamar (from the Netherlands), Infospectrum and Lloyd's MIU.

International conventions

Because of the international nature of shipping law, international conventions inevitably feature strongly in the shipping lawyer's arsenal. Requests in the library for conventions outstrip those for national legislation. Many conventions stem from the work of the International Maritime Organisation (IMO), a body devoted to shipping matters. The IMO was established in 1958 and one of its functions was declared to be the development of new conventions. It is now responsible for nearly 50 international conventions and agreements, particularly in the areas of maritime safety, pollution, liability and

compensation. Amongst the most well-known are the International Convention for Safety of Life at Sea 1974 (SOLAS), the Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGs) and the International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978 (MARPOL 73/78). Conventions laying down regimes for the limitation of liability for maritime claims are of particular importance, e.g. the Convention on Limitation of Liability for Maritime Claims 1976 (LLMC) (another IMO Convention) and the Hague and Hague Visby Rules.

Probably the most frequent request in relation to international conventions, apart from the text itself, is whether or not a particular country is party to the convention. The *Ratification of Maritime Conventions* is a four volume loose-leaf work published by LLP with the Institute of Maritime Law, University of Southampton, in consultation with the International Maritime Organisation. This work answers these questions adequately. It is also the only comprehensive source I am aware of that provides the date a convention came into force at a national level, as well as internationally. Although the title contains the word "maritime", the coverage of the work is actually rather wider than this, since it also includes conventions on jurisdiction, arbitration and enforcement, even where there is no direct connection with shipping. There are only two service issues each year, but subscriptions are accompanied by a telephone and fax service to the Institute of Maritime law.

The *Ratification of Maritime Conventions* is also contained on *i-Law*, which is a much better medium for this sort of information. Regrettably the contents are no more current than the hard copy.

The other main hard copy source is *Benedict on Admiralty*. The complete work is 31 loose leaf volumes, but it is possible to subscribe to the four treaties volumes on their own. They reproduce the text of conventions together with tables of ratifications and accessions.

Other online sources of information for international conventions include the IMO website (www.imo.org) where there is a useful downloadable spreadsheet of the status of conventions by country. The site does not provide the full text of all the conventions. Another useful service is *regs4ships*, which was set up in 2001 to provide digital regulations, technical information and IMO material to ships and the shore infrastructure. It provides the texts of a number of conventions, such as SOLAS, MARPOL, etc, but does not maintain details of parties to the conventions. (This service also provides UK and EU legislation relating to shipping and a number of other relevant documents).

Standard shipping forms

Like any other lawyer, the shipping practitioner needs a range of forms in connection with his work. In the shipping industry, there are a number of proprietary forms that are in common use. The general services like the

Encyclopaedia of Forms & Precedents, whilst containing some shipping forms, are not very strong in this area. There is a need to use more specialised sources which can offer a range of bills of lading, charterparties, marine insurance forms and the like. Sometimes the need is simply to examine the text of the form, rather than using it as a working document. In these cases hard copy sources like *Benedict on Admiralty* come into their own. There are four volumes on carriage of goods by sea which can be purchased separately from the rest of the set. The carriage of goods volumes reprint a wide selection of charterparties, divided into type, e.g. bareboat, grain, tanker. There are a number of other shipping documents included, such as bills of lading, towage and salvage contracts, shipbuilding contracts, ship sale contracts, etc.

The other hard copy source which I would recommend for shipping forms is *Forms of Approved Documents* published by BIMCO. This contains specimen forms of all BIMCO approved charterparties, bills of lading, waybills, management agreements, contracts of affreightment, wreck removal contracts, bareboat charters and other shipping documents, plus the wording of 75 standard clauses. It is published in an A4 ring binder and the subscription includes updates for a year.

i-Law has recently added a range of pdf shipping forms to its maritime and commercial service. These include the usual charterparties etc as well as the range of Admiralty Court forms. Regrettably, they cannot be used as working documents due to the format.

Sometimes the lawyer will need a form to actually put into use in connection with his client work. There is not much available on the market, the only comprehensive online service coming once again from BIMCO, which they have called *idea*. This is a document editing application which carries a selection of over 70 standard shipping documents which can be edited and saved online. The application uses Microsoft Word, but the procedures for using the system are rather convoluted. Once completed, the user saves the document, but it remains on the BIMCO server. Strict security is in place to reassure the lawyer that documents are safe from the outside world. Completed documents are e-mailed to your pre-registered e-mail address in the form of a pdf-file. The document may then be distributed by e-mail to the relevant parties. If the user needs to edit the document he must go back online and repeat the process again. The system uses a "pay as you go" print system so that users only pay for the documents they produce. Working copies, watermarked as such (as opposed to final copies) are free of charge, although there is a small annual subscription in addition to the charges for the documents.

Conclusion

I think this article demonstrates that, although legal materials are inevitably required by the shipping lawyer,

a supply of these and knowledge of them is to a certain extent taken for granted. An equal emphasis needs to be

devoted to the specialist shipping tools that give the lawyer an edge in the market.

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Biography

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