

## Arbitrators at 24 Lincoln's Inn Fields

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### **Sir Jack Beatson FBA**

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<b>Lord Justice of Appeal</b>	<b>(2013 to 2018)</b>
<b>High Court Judge, QBD</b>	<b>(2003 to 2013)</b>
<b>Member of Judicial Working Party on Constitutional Reforms</b>	<b>(2003 to 2005)</b>
<b>Deputy High Court Judge</b>	<b>(1999 to 2003)</b>
<b>Member of Data Protection Tribunal (National Security)</b>	<b>(1999 to 2003)</b>
<b>Law Commissioner</b>	<b>(1989 to 1994)</b>
<b>Recorder of the Crown Court</b>	<b>(1994 to 2003)</b>

Sir Jack Beatson, was a former Lord Justice of Appeal (January 2013 to 5 February 2018) before becoming a full time international arbitrator. Before becoming Lord Justice, he was a High Court judge in the Queen's Bench Division; a Law Commissioner; and a professor of law at the University of Cambridge.

Sir Jack was called to the Bar at the Inner Temple in 1973, becoming an honorary Bencher in 1994 and Governing Bencher in 2003. He was Law Commissioner for England and Wales for five years from July 1989 to 1994, working on contract and commercial law, civil evidence, damages, administrative law, and financial services. He re-joined Essex Court Chambers in 1994, and was appointed Queen's Counsel in 1998.

Earlier in his career Sir Jack was a law lecturer at the University of Bristol 1972–73, later becoming a law tutor at Merton College, Oxford until 1994. He was Rouse Ball Professor of English Law at the University of Cambridge from 1994 to 2003, and the founding director of its Centre for Public Law (1997–2001). Lord Falconer called him an "*outstanding academic lawyer*".

In July 2001 he became a fellow of the British Academy of Humanities and Social Sciences, and he was President of the British Academy of Forensic Sciences 2007–09. Sir Jack was a member of the advisory groups for Burrows' "Restatement of the English Law of Unjust Enrichment" (2012) and "Restatement of the English Law of Contract" (2016)

### **CURRENT APPOINTMENTS and MEMBERSHIPS:**

- AIFC Court Judge, Republic of Kazakhstan
- Member of the London Court of Arbitration

### **EDUCATION, CALL and AFFILIATIONS:**

- Oxford; BA, Jurisprudence 1970 (1st class Hons.); BCL 1972 (1st class Hons.); MA 1973, DCL 2000
- Cambridge; LLD 2001
- Called to the Bar (IT) 1973

- Queen's Counsel 1998
- Fellow of the British Academy of Humanities and Social Sciences, 2001
- Honorary Fellowships, Oxford: Merton (1994), Brasenose (2009); Cambridge: St John's (2006)
- President, British Academy of Forensic Science 2007-2009
- Member of Essex Court Chambers 1982-2003

## **SELECTED JUDGMENTS IN ARBITRATION AND COMMERCIAL CASES**

### Arbitration: Court of Appeal

*Sabbagh v Khoury* [2017] EWCA Civ. 1120 (Share ownership dispute: scope of arbitration clauses; approach to jurisdiction over "anchor-defendant")

*Yegiazaryan v Smagin* [2016] EWCA Civ 1290 (section 67 challenge to arbitrators' jurisdiction)

*AmTrust Europe Ltd v Trust Risk Group SpA* [2015] EWCA Civ. 437, [2015] 2 Lloyd's Rep. 154 (scope of arbitration clause in insurance contracts framework agreements, allocation of jurisdiction)

*Seagrain v Glencore Grain* [2013] EWCA Civ. 1627, [2014] 1 Lloyd's Rep 598 (arbitration appeal; GAFTA prohibition of export clause)

### Arbitration: Commercial Court

*Thai Marpan Trading Co Ltd v Louis Dreyfus Commodities Asia Pte Ltd* [2011] EWHC 2494 (Comm), [2011] 2 Lloyd's Rep. 704 (GAFTA award; effect of short notice of ETA of vessel)

*African Fertilizers and Chemicals NIG Ltd v BD Shipsnavo GmbH & Co Reederei KG* [2011] EWHC 2452 (Comm), [2011] 2 Lloyd's Rep 531 (jurisdiction to enter judgment in terms of a declaratory arbitration award)

*TTMI Sarl v Statoil ASA* [2011] EWHC 1150 (Comm), [2011] 2 All ER (Comm) 647 (arbitrators' jurisdiction, undisclosed principal, wrong owner named on charter, conduct of arbitrators)

*Republic of Serbia v Imagesat International NV* [2009] EWHC 2853 (Comm) [2010] 1 Lloyd's Rep 324 (arbitrability, public international law, state succession, estoppel)

*Compania Sud Americana de Vapores SA v Nippon Yusen Kaisha* [2009] EWHC 1606 (Comm), [2010] 1 Lloyd's Rep. 436 (abandonment, arbitrators' powers and duties, serious irregularity)

*Equitas Ltd v Allstate Insurance Company* [2008] EWHC 1671 (Comm) [2009] Lloyd's Rep. IR 227 (stay of arbitral proceedings)

*Tchigirinski v Orton Oil* [2009] EWHC 1739 (Comm) (injunction sought under Arbitration Act 1979, s 44(3) to restrain disposal of shares pending arbitration)

*Colliers International Property Consultants v Colliers Jordan Lee Jafar Sdn Bhd* [2008] EWHC 1524 (Comm), [2008] 2 Lloyd's Rep 368 (enforcement, non-disclosure, procedural irregularity, setting aside service out of the jurisdiction)

*Gater Assets Ltd v Nak Naftogaz Ukrainiy* [2008] EWHC 1108 (Comm), [2008] 2 Lloyd's Rep. 295 (enforcement of award, interest payable)

#### Other Commercial cases: Court of Appeal

*BAT Caribbean SA v PHP Tobacco Carib SARL* [2017] EWCA Civ. 1131 (service out of jurisdiction; whether provision in distribution agreement is an exclusive jurisdiction clause)

*Irish Bank Resolution Corporation Ltd v Camden Market Holdings Corp* [2017] EWCA Civ 7 (consistency of pleaded implied term with express terms)

*Globe Motors Inc v TRW Lucas Varity Electric Steering Ltd.* [2016] EWCA Civ 396, [2017] 1 All ER (Comm) 601 (construction of long-term supply agreement and effect of clause that required any amendment to be in writing and signed by the parties)

*Caresse Navigation Ltd v Zurich Assurances Maroc* [2014] EWCA Civ 1366, [2015] 1 Lloyd's Rep 256, (anti-suit injunction, incorporation of jurisdiction clause in charter into bill of lading)

*Dar Al Arkan Real Estate Development Co & Anor v Al Refai & Ors* [2014] EWCA Civ 715 (extra-territorial reach of proceedings for civil contempt against director of a foreign company)

*Heritage Oil & Gas v Tullow Uganda Ltd* [2014] EWCA Civ 1048 (scope of indemnity clause in oil and gas SPA)

*JSC BTA Bank v Ablyazov* [2013] EWCA Civ 928, [2014] 1 WLR 1414, rev'd [2015] UKSC 64 (scope of standard Commercial Court freezing order; contractual right to draw down under an unsecured loan facility not within it)

*Antonio Gramsci v Lembergs* [2013] EWCA Civ 730 (jurisdiction under Brussels Regulation, piercing the corporate veil)

*Fish & Fish v Sea Shepherd UK* [2013] EWCA Civ 534, rev'd [2015] UKSC 15 (jurisdiction, accessory liability in tort)

#### Company law appeals

*Brumder v Motornet Service & Repairs Ltd.* [2013] EWCA Civ. 195, [2013] 1 WLR 2783 (directors' powers and duties, reasonable care).

*Harbinger Capital v Caldwell* [2013] EWCA Civ. 492 (assessing value of shares prior to nationalisation)

*Antonio Gramsci v Lembergs* [2013] EWCA Civ 730, [2013] 4 All ER 157 (whether the corporate veil should be pierced).

#### Commercial Court:

*Al- Sadi v Al- Sadi* [2011] EWHC 976 (Comm) (order for service out of the jurisdiction set aside because original pleadings disclosed no reasonable prospect of success and post-service amendments put the case on an entirely new legal basis)

*Blue Sky One Ltd v Mahan Air* [2009] EWHC 3314 (Comm); [2010] EWHC 128 (Comm); [2010] EWHC 631 (Comm), (illegality, trust and private international law in relation to leases of aircraft to Iranian company)

*Islamic Republic of Iran SS Lines v Steamship Mutual Underwriting Assoc.* [2010] EWHC 2661 (Comm); [2011] 1 Lloyd's Rep. 195 (measures taken under counter-terrorism legislation did not render P & I insurance cover illegal or frustrate contract.)

*Meritz Fire and Marine Insurance Co v Jan De Nul NV* [2010] EWHC 3362 (Comm); 134 Con. L.R. 252; (guarantee or performance bond)

*Underwriting Members of Lloyd's Syndicate 980 & Ors v Sinco SA* [2008] EWHC 1842 (Comm); [2009] Lloyd's Rep. I.R. 365 (jurisdiction; stay under Brussels Regulation)

*West London Pipeline and Storage Ltd & Anor v Total UK Ltd & Ors* [2008] EWHC 1729 (Comm) (litigation privilege, going behind affidavits)

*Temple Legal Protection Ltd v QBE Insurance (Europe) Ltd* [2008] EWHC 843 (Comm); [2008] Lloyd's Rep. I.R. 643 aff'd [2009] EWCA Civ 453 (legal expenses insurance; termination of agent's authority)

*General Trading Company (Holdings) Ltd v Richmond Corporation Ltd* [2008] EWHC 1479 (Comm); [2008] 2 Lloyds R 475 (guarantee; penalty or liquidated damages clause)

## **SELECTED JUDGMENTS IN PUBLIC LAW CASES**

### **ECONOMIC REGULATION**

#### Court of Appeal

*Department for Business, Energy & Industrial Strategy v Information Commissioner* [2017] EWCA Civ. 844, [2017] PTSR 1644 (Access to information; whether information about a component of a smart meter programme was "environmental information" within Regulations)

*R (British American Tobacco and ors) v Secretary of State for Health* [2016] EWCA Civ 1182, [2017] 3 WLR 225 (lawfulness of plain paper packaging requirement for tobacco products)

*R (Mott) v Environment Agency* [2016] EWCA Civ. 564, [2016] 1 WLR 4338, aff'd [2018] UKSC 10 (lawfulness of catch limits on salmon fishing; enhanced margin of appreciation to regulator where case involves scientific and predictive assessments; absence of compensation meant that the limits were a disproportionate interference with property rights and breached Article 1 of Protocol 1 of the ECHR)

*R (Hemming) Westminster CC* [2013] EWCA Civ. 591; [2013] PTSR 1377 (costs of enforcing a licensing system could not be reflected in licence fees charged because

they were not costs of "authorisation procedures and formalities"; approach to recovery of unlawful overpayments)

### Administrative Court

*R (Mabanaft Ltd) v Secretary of State for Trade* [2008] EWHC 1052 (Admin) aff'd [2009] EWCA Civ 224 (challenge to oil stocking regulations made pursuant to the requirements of Directive 2006/67)

*R (Law Society) v Legal Services Commission* [2007] EWHC 1848 (Admin) [2008] Eu. L.R. 94 aff'd in part [2007] EWCA Civ 1264; [2008] Q.B. 737 (Legal Services Commission; Tenders for Legal Aid Contracts)

*R (Wetherspoon Plc) v Guildford BC* [2006] EWHC 815 (Admin) [2007] 1 All E.R. 400; [2006] J.P.L. 1710 Licensing Act 2003 application of cumulative impact policy)

## **OTHER PUBLIC LAW CASES**

### Court of Appeal

*R (W2 and IA) v Home Secretary* [2017] EWCA Civ. 2146 (deprivation of citizenship on national security grounds; whether appeal to the SIAC is a practical, suitable and adequate alternative remedy to judicial review)

*Chief Inspector of Education etc v Interim Executive Board of Al-Hijrah School* [2017] EWCA Civ. 1426 (whether segregation of boys and girls in mixed school was unlawful discrimination)

*R (Howard League for Penal Reform) v Lord Chancellor* [2017] EWCA Civ. 244, [2017] 4 WLR 92 (whether removal of legal aid for certain decisions concerning prisoners would lead to systemic unfairness)

*R (Steinfeld) Secretary of State for Education* [2017] EWCA Civ. 81, [2017] 3 WLR 1237 (lawfulness of bar on different-sex couples from entering civil partnership while government considers future arrangements)

*R (ZAT & others) v Home Secretary* [2016] EWCA Civ. 810, [2016] 1 WLR 4894 (operation of Dublin Regulation to unaccompanied children applying for asylum)

*R (FR (Albania)) v Home Secretary* [2016] EWCA Civ. 605 (approach to challenge to certification of claim to asylum as "clearly unfounded")

*Mohammed & Rahmatullah v Secretary of State for Defence* [2015] EWCA Civ. 843; [2016] 2 W.L.R. 247, reversed in part [2017] UKSC 2 (lawfulness of detention of insurgent captured in non-international armed conflict; role of international humanitarian law, defence of act of state)

### Administrative Court

*R (Chapti) v Home Secretary* [2011] EWHC 3370 (Admin), [2012] 2 All ER 653 aff'd [2013] EWCA Civ 322, [2015] UKSC 68 (legality of English language requirement for entry to UK of foreign spouses of UK nationals)

*R (Brynmawr Foundation School) v Welsh Ministers* [2011] EWHC 519 (Admin) (power of Welsh Ministers and public authorities to make arrangements for the functions of one to be exercised by the other; approach to construction of a "constitutional" statute)

## SELECTED PUBLIC LECTURES

- 2017 Atkin Lecture, Reform Club, London, *Judicial Independence: Internal and External Challenges and Opportunities*
- Keynote address at the IPBA Asia-Pac Arbitration Day, Kuala Lumpur, 2015 International arbitration, public policy considerations and conflicts of law: the perspectives of reviewing and enforcing courts, (2017) 33 *Arbitration International* 175-196
- 33rd Blackstone Lecture, Oxford University, 2009; *Reforming an Unwritten Constitution*, (2010) *Law Quarterly Review* 48
- Presidential Address, British Academy of Forensic Science, *Forensic Science and Human Rights: The Challenges* (2009) *Medicine, Science and the Law*
- Nottingham Trent University Distinguished Lecture Series 2008, *Judicial Independence and Accountability*, (2008) *The Judicial Review* 1
- 2004 Lionel Cohen Lecture, Hebrew University of Jerusalem, *Should Judges Conduct Public Inquiries?* (2005) *121 Law Quarterly Review* 221

## PUBLICATIONS

### Private Law

- Anson's *Law of Contract* 30th ed. 2016 (also 27 - 29th eds.)
- *Chitty on Contract*, an editor (25th - 28th eds.)
- *The Use and Abuse of Unjust Enrichment: Essays on the Law of Restitution* 1991 (author).
- *Good Faith and Fault in Contract Law* (author & joint editor with D Friedmann) 1995
- *Unjustified Enrichment: Cases, Materials and Texts* (author & joint editor with E. Schrage) 2003

### Public Law

- *Human Rights: Judicial Protection in the UK* (2008) with S Grosz, T Hickman and R Singh
- *Freedom of Expression and Freedom of Information* (author & joint editor with Y Cripps) 2000
- *Human Rights: The 1998 Act and the European Convention*, 2000 with S. Grosz and P. Duffy

- New Directions in European Public Law (author & joint editor with T. Tridimas) 1998
- Administrative Law: Cases and Materials (2nd ed 1989), with M. Matthews

### Other

- Jurists Uprooted: German Speaking Émigré Lawyers in 20th Century Britain (author & joint editor with R. Zimmermann) 2004

### Articles

- Unlawful Statutes and Mistake of Law: Is There a Smile on the Face of Schrödinger's Cat? in Mapping the Law: Essays in Memory of Peter Birks, (2006)
- The role of statute in the development of Common Law Doctrine (2001) 117 Law Quarterly Review 106
- The Incorporation of the EU Directive on Unfair Terms in Consumer Contracts into English Law [1998] ZEuPR 957
- Prematurity & Ripeness for Review (in The Golden Metwand eds Forsyth & Hare 1998)
- From "Classical" to Modern Contract Law (with D. Friedmann), in Good Faith and Fault in Contract Law (eds Beatson & Friedmann) OUP 1995, pp 3-24
- Public Law Influences in Contract Law, in Good Faith and Fault in Contract Law (eds Beatson & Friedmann) OUP 1995, pp 263-290
- Restitution of taxes, levies and other imposts: defining the scope of the Woolwich principle (1993) 109 Law Quarterly Review. 406
- The relationship between regulations governing the financial services industry and fiduciary duties (in Commercial Aspects of Trusts and Fiduciary Obligations, ed. McKendrick 1992)
- Reforming the Law of Contracts for the Benefit of Third Parties: A second bite at the cherry, 1992(B) Current Legal Problems 1
- Rights of Suit in Carriage by Sea 1991 Lloyds M.C.L.Q. 191 (with JJ Cooper)
- Restitution from Company Directors, (1990) 106 L.Q.R. 365 (co-author)
- Proportionality, (1988) 104 L.Q.R. 180
- Benefit, Reliance and the Structure of Unjust Enrichment, (1987) Current Legal Problems 71
- Financial Services: Who Will Regulate the Regulators? (1987) 8 Company Lawyer 34
- The Courts and the Regulators, 1987 Professional Negligence 154
- Public and Private in English Administrative Law, (1987) 103 Law Quarterly Review 34
- Mistaken Payments and the Law of Restitution (1986) 36 U. of Toronto LJ 149 (with B. Bishop)

- The Scope of Judicial Review for Error of Law (1984) 4 Oxford J. Legal Studies 22
- Discharge for Breach: The Position of Instalments, Deposits and other Payments due before Completion (1981) 97 Law Quarterly Review 389
- Legislative Control of Administrative Rulemaking: Lessons from the British Experience (1979) 12 Cornell International Law Journal 199
- The Nature of Waiver of Tort (1978) 17 U.W. Ontario L.R. 1
- Unrequested Payment of Another's Debt (1976) 92 L.Q.R. 188 (with P. Birks)
- Duress as a Vitiating Factor in Contract (1974) Cambridge Law Journal 97

Sir Jack is now accepting arbitral nominations and expert opinion enquiries.

All enquiries should be made to the Arbitration Team Leader, Rachel Newman ([rnewman@essexcourt.com](mailto:rnewman@essexcourt.com)); alternatively by telephone (+44 20 7147 7233).