

OXFORD  
PRIVATE INTERNATIONAL LAW  
SERIES

---

---

---

EMPLOYMENT  
CONTRACTS IN  
PRIVATE  
INTERNATIONAL LAW

---

LOUISE MERRETT

---

---



OXFORD

# EMPLOYMENT CONTRACTS IN PRIVATE INTERNATIONAL LAW

LOUISE MERRETT

*Senior Lecturer, University of Cambridge,  
Fellow of Trinity College, Cambridge, Barrister*



OXFORD  
UNIVERSITY PRESS

OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford ox2 6DP

Oxford University Press is a department of the University of Oxford.  
It furthers the University's objective of excellence in research, scholarship,  
and education by publishing worldwide in

Oxford New York

Auckland Cape Town Dar es Salaam Hong Kong Karachi  
Kuala Lumpur Madrid Melbourne Mexico City Nairobi  
New Delhi Shanghai Taipei Toronto

With offices in

Argentina Austria Brazil Chile Czech Republic France Greece  
Guatemala Hungary Italy Japan Poland Portugal Singapore  
South Korea Switzerland Thailand Turkey Ukraine Vietnam

Oxford is a registered trade mark of Oxford University Press  
in the UK and in certain other countries

Published in the United States  
by Oxford University Press Inc., New York

© Louise Merrett 2011

The moral rights of the authors have been asserted

Crown copyright material is reproduced under Class Licence  
Number C01P0000148 with the permission of OPSI  
and the Queen's Printer for Scotland

Database right Oxford University Press (maker)

First published 2011

All rights reserved. No part of this publication may be reproduced,  
stored in a retrieval system, or transmitted, in any form or by any means,  
without the prior permission in writing of Oxford University Press,  
or as expressly permitted by law, or under terms agreed with the appropriate  
reprographics rights organization. Enquiries concerning reproduction  
outside the scope of the above should be sent to the Rights Department,  
Oxford University Press, at the address above

You must not circulate this book in any other binding or cover  
and you must impose the same condition on any acquirer

British Library Cataloguing in Publication Data  
Data available

Library of Congress Cataloguing in Publication Data  
Data available

Typeset by Cenveo, Bangalore, India  
Printed in Great Britain  
on acid-free paper by  
CPI Group (UK) Ltd, Croydon, CR0 4YY

ISBN 978-0-19-959104-6

1 3 5 7 9 10 8 6 4 2

## Foreword

One of the qualities of a good academic lawyer is to have an eye for the issues of current interest to practitioners. Louise Merrett has demonstrated this quality in spades. Over the past few years there has been a spate of cases exploring the territorial scope of UK and/or British and/or English (potentially significant distinctions) employment law: some of these are concerned with working out the implications of the decision of the House of Lords in *Lawson v Serco*, but the ‘*Bleuse* principle’ may be of at least equal significance. This reflects the real importance of these questions in an era of increasing globalisation. For the book to go to press within a few weeks of the decision of the Supreme Court in *Duncombe (No. 2)* shows immaculate timing. (It is a pity she could not wait for *Ravat v Halliburton* too; but alas there is always another case in the pipeline.)

What ultimately matters is not timing but quality. Before she settled in Cambridge Ms Merrett had experience both at the Law Commission and as a practising barrister, and this book combines the virtues of a rigorous academic monograph with practical utility. Both students and practitioners will be enormously assisted by its clarity of analysis in a peculiarly complex field. The careful explanation in chapter 1 of the different senses in which the protean term ‘jurisdiction’ is used in the authorities is particularly valuable and is typical of the clear thinking and exposition which characterizes the following chapters. Many areas which have developed gradually and confusingly in the domestic case-law and that of the Court of Justice of the European Communities are for the first time systematically mapped. I have no doubt, for example, that chapter 4 will be my first port of call from now on when considering issues under the Brussels Convention; likewise chapter 6 on choice of law. Indeed even chapter 2, which is intended only as a curtain-raiser to set the domestic law scene, gives a valuable conspectus of some tricky points.

The private law international law aspects of employment contracts has not so far received focused attention from a lawyer with a full grasp both of employment law and (what I still think of as) conflicts of law. That omission has now been handsomely put right.

Nicholas Underhill  
(President, Employment Appeal Tribunal)  
20.09.11

## General Editor's Preface

The *Oxford Private International Law Series* contains a number of works which discuss the application of private international law rules to substantive areas of law, including intellectual property law (*Intellectual Property and Private International Law* and *Cross-Border Enforcement of Patent Rights*), the international sale of goods (*International Sale of Goods in the Conflict of Laws*) and consumer law (*Cross-Border Consumer Contracts*). The latest in this line is Louise Merrett's *Employment Contracts in Private International Law*. This can be regarded in some ways as a parallel monograph to Jonathan Hill's *Cross-Border Consumer Contracts*. The Brussels I Regulation and the Rome Convention and Rome I Regulation contain special regimes of rules for both employment and consumer contracts. Although the content of these rules is different for employment contracts from consumer contracts, these special private international law rules share the same prime objective of seeking to protect the weaker party, the employee, and the consumer. In both areas mandatory rules play an important part.

But the parallels should not be pushed too far. Employment contracts pose unique problems. The role of tort law and its interaction with contract is especially difficult and is given special attention. The Posted Workers Directive poses particular difficulties in private international law, as do restrictive covenants. These two topics are accordingly given their own chapters in the book.

As with any exercise in applied private international law, the starting point is the substantive law background and the book starts with an exposition of this. The jurisdictional rules and the choice of law rules are examined in detail. An attempt is made to identify common themes, overlaps, and parallels between these rules and also to explore their rationale. Thus the approach is to bring the jurisdiction and choice of law rules together so as to produce a better understanding of each.

The stated aim of the *Oxford Private International Law Series* is to publish works of high quality and originality in a number of important areas of private international law. *Employment Contracts in Private International Law* manifestly fulfils these criteria and is an admirable addition to the *Series*.

James Fawcett  
Nottingham  
June 2011

## Preface

I have found private international law fascinating ever since I was lucky enough to study the subject with John Collier while an undergraduate at Cambridge. There are a number of reasons why I decided to focus specifically on private international law and employment contracts. One reason is that texts covering the whole of the vast and complex area of private international law understandably often do not have space to consider special areas such as employment in any detail. Second, the international aspects of employment contracts raise issues which are becoming increasingly important in practice. For example, in the past six months, English courts have had to consider the private international law issues which arise: when Chinese cabin crew working for British Airways on flights between London and Hong Kong wished to claim for age discrimination (*British Airways Plc v Mak* [2011] EWCA Civ 184); when a London businessman employed by an Indian company to promote an Indian Premier League cricket team alleged wrongful dismissal (*Wright v Decan Chargers Sporting Ventures* [2011] EWHC 1307); in the context of a claim for sex discrimination by the wives of English soldiers working at NATO headquarters in Belgium and the Netherlands (*Ministry of Defence v Wallis* [2011] EWCA Civ 231) and in relation to claims by English teachers working at European Schools under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and for unfair dismissal (*Duncombe v Secretary of State for Children* [2011] UKSC 14 and [2011] UKSC 36). The Court of Justice of the European Union has also recently considered the law which applied to the contract of employment of a German lorry driver employed by a Danish company under a contract entered into in Luxembourg to deliver flowers to various European countries (*Koelzsch v Luxembourg* Case 29/10).

Given the real-life importance of the issues which arise, I have sought to undertake a comprehensive analysis of the rules on jurisdiction and choice of law from a predominantly practical perspective. However, any practical approach must be informed by the principles and theory which underlie the subject. In writing the book, I found that many of the issues which arise in employment cases also raises questions which are of interest not only to practitioners in the field but also to those with an academic interest in the conflict of laws. In particular, the importance of mandatory rules in employment cases caused me to think more carefully about the role of mandatory rules in private international law as whole. I also found that attempting to define a 'contract of employment' for the purposes of the

European rules required me to consider theoretical issues behind characterization, particularly in a European context. This means that in some chapters there is a considerable theoretical and academic component, as well as an examination of the practical implications. In many areas it is also very difficult to consider private international law rules without an appreciation of the substantive law context in which they operate. It is also becoming impossible to study or work in the area of private international law without an awareness of the European law background. I have therefore sought to combine my experience and knowledge in employment law and European law as well as private international law in order to consider the issues with as comprehensive an understanding of the context in which they operate as possible.

During the course of writing this book I was fortunate to be invited to give a seminar in Cambridge at the Centre for European Studies on the subject of posted workers in Europe. This provided me with an invaluable opportunity to focus and develop my ideas on what proved to be one of the most difficult areas in the book. The results of that seminar are to be published in the 2010–2011 *Cambridge Yearbook of European Legal Studies* (Volume 13) and provide the basis for chapter 8 of this book. Some of the issues in relation to the territorial scope of employment rights which I explore in chapter 7 of the book are also considered in more detail in an article recently published in the *Industrial Law Journal* ((2010) ILJ 355).

I have attempted to state the law as it seemed to me in September 2011. As described above, a number of important decisions have been published in the past six months, most of which I have been able to include in this book. However, no doubt there will already have been further developments—for example, the Agency Workers Regulations will come into force in October 2011 and these Regulations will eventually affect the position of agency workers discussed in chapter 2. In chapter 4 I have outlined proposals recently published for radical changes to the Brussels I Regulation, but negotiations on these proposals will continue and it will be some time before the outcome of these proposed reforms becomes clear.

In writing this book I have received assistance from a great number of people and in a variety of ways. As I have said, I am very grateful to the Centre for European Legal Studies for inviting me to speak at one of their seminars. That seminar, and indeed this project as whole, came about in large part through discussions with my friend and colleague Professor Catherine Barnard. She has given me the benefit of her views on numerous points of European law and labour law and has encouraged me from the start to think that private international law has an important role to play in both fields. My fellow private international lawyers, particularly

Professor Richard Fentiman and Dr Pippa Rogerson, have also been a constant source of inspiration and kindness since I first began teaching in Cambridge.

I am very grateful to Mr Justice Underhill, both for agreeing to write the Foreword and for his comments generally on the book. I would also like to thank him for first encouraging and furthering my interest in the practice of employment law when I was his junior in a number of employment cases.

In terms of the book itself, Sir Richard Buxton provided me with many invaluable comments and insights. Although all errors remain my own, there would have been many more without his help and advice, for which I am extremely grateful. I am also grateful to all those at OUP who have helped me with the book, from the initial development of the project to the bringing of the book to publication and to Professor James Fawcett, General Editor of the Oxford Private International Law Series.

On a personal note I would also like to thank my family. My long-suffering husband, who has the misfortune of also being a lawyer, has helped me refine many of my ideas. My parents are a constant source of help and support and my sister of much welcomed distraction. All are greatly appreciated. Finally this book is for my children, Amelia and Arthur, who make everything worthwhile.



# Contents

<i>Tables of Cases</i>	xvii
<i>Tables of Legislation</i>	xxvii
<i>Table of United Kingdom Secondary Legislation</i>	xxxi
<i>Table of European Legislation</i>	xxxiii
<i>Table of International Treaties and Conventions</i>	xxxix
<b>Chapter 1 INTRODUCTION</b>	<b>1</b>
A. The Private International Law Issues Which Arise in Connection with International Employment Contracts	1.01
B. Confusion over 'Jurisdiction'	1.11
C. Conclusions	1.17
<b>Chapter 2 EMPLOYMENT IN NATIONAL LAW</b>	<b>11</b>
A. Introduction	2.01
B. Common Law Tests for the Existence of an Employment Relationship	2.18
C. Workers in English Domestic Law	2.39
D. The Scope of Employment for the Purposes of Discrimination Legislation	2.50
E. The Scope of Employment for the Purposes of Health and Safety Legislation	2.53
F. Agency Workers	2.54
G. The Meaning of Employment in Other European Jurisdictions	2.63
H. Conclusions	2.66
<b>Chapter 3 THE MEANING OF EMPLOYMENT FROM A PRIVATE INTERNATIONAL PERSPECTIVE</b>	<b>45</b>
A. Introduction	3.01
B. Theories of Characterization	3.05
C. Characterization in European Law	3.12
D. Autonomous EU Definition of Contract of Employment	3.35
E. Conclusions	3.62
<b>Chapter 4 JURISDICTION UNDER THE BRUSSELS I REGULATION</b>	<b>79</b>
A. Introduction	4.01
B. Jurisdictional Regimes: When Do the Brussels I Regulation Rules on Jurisdiction Apply?	4.07
C. Special Jurisdictional Rules in Employment Cases	4.29

D. The Special Rules for Employment Contracts in Section 5 of the Brussels I Regulation	4.44
E. Article 5(5): Branch, Agency, or Other Establishment	4.98
F. Reliance on Other Heads of Jurisdiction: The Exclusive Application of the Section 5 Rules in Employment Cases	4.103
G. <i>Lis Alibi Pendens</i>	4.115
H. Conclusions	4.119
<b>Chapter 5 NATIONAL JURISDICTION RULES IN EMPLOYMENT CASES</b>	<b>139</b>
A. Introduction	5.01
B. Service of Proceedings in Common Law Cases	5.04
C. Jurisdiction in Employment Tribunals	5.15
D. The Court's Adjudicatory Discretion: <i>Forum Non Conveniens</i> in Employment Cases at Common Law	5.19
E. <i>Forum Non Conveniens</i> in Employment Tribunals	5.39
F. <i>Forum Non Conveniens</i> in Brussels I Regulation Cases: The <i>Owusu</i> Issue	5.56
G. Conclusions	5.63
<b>Chapter 6 CHOICE OF LAW</b>	<b>173</b>
A. Introduction	6.01
B. Historical Development of Choice of Law Rules in Employment Cases	6.06
C. The Scope of the Rome I Regulation Rules on Employment Contracts	6.25
D. Article 3: Express and Implied Choice of Law	6.37
E. Article 8(2): Applicable Law in the Absence of Choice	6.52
F. Article 8(4): Displacement of the Presumptions	6.62
G. The Continued Application of Mandatory Rules	6.79
H. Choice of Law in Non-Contractual Claims	6.89
I. Conclusions	6.93
<b>Chapter 7 MANDATORY RULES IN EMPLOYMENT CASES</b>	<b>225</b>
A. Introduction	7.01
B. Mandatory Rules and Public Policy in Private International Law	7.05
C. Mandatory Rules in the Rome Convention	7.17
D. Mandatory Rules in the Rome I Regulation	7.27
E. Overriding Mandatory Rules in English Employment Legislation	7.48
F. The Territorial Scope of English Employment Legislation	7.50
G. Conclusions	7.76

<b>Chapter 8</b>	<b>POSTED WORKERS</b>	<b>259</b>
A.	Introduction	8.01
B.	Applicable Law and Mandatory Rules in Posted Worker Cases	8.05
C.	Posted Workers in European Law: the Posted Workers Directive	8.10
D.	The Restrictive Interpretation of the Posted Workers Directive	8.18
E.	Compatibility of UK Employment Law with the Posted Workers Directive	8.24
F.	Section 204 of the Employment Rights Act 1996: A Mandatory Rule Under Article 9 of the Rome I Regulation?	8.31
G.	Conclusions	8.43
<b>Chapter 9</b>	<b>THE CROSS-BORDER ENFORCEMENT OF RESTRICTIVE COVENANTS</b>	<b>283</b>
A.	Introduction	9.01
B.	Employees' Obligations in English Law	9.06
C.	Private International Law and the Enforcement of Restrictive Covenants	9.25
D.	Conclusions	9.53
<b>Chapter 10</b>	<b>CONCLUSIONS</b>	<b>311</b>
	<i>Bibliography</i>	319
	<i>Index</i>	321

## *Tables of Cases*

Abdulla v Birmingham City Council [2010] EWHC 3303 .....	1.04
Aerospatiale v Lee Kui Jak [1987] AC 871 .....	9.36
Agnew v Lansförsakringsbolagens AB [2001] AC 223 .....	4.54, 4.57
Alberta Inc v Katanga Mining Ltd [2008] EWHC 2679, [2009] ILPR 14. ....	4.24
Allonby v Accrington and Rossendale College (Case C-256/01) [2004] IRLR 224 .....	2.52, 2.54, 2.58, 3.27, 3.39, 3.40, 3.41, 3.60
Amin Rasheed Shipping Corp v Kuwait Insurance Co [1984] AC 50 .....	5.27, 6.41
Anglo-Austrian Bank, Re [1920] 1 Ch 69 .....	6.10
Antec International Ltd v Biosafety USA Inc [2006] EWHC 47. ....	5.32
Anton Durbeck GmbH v Den Norske Bank ASA [2003] EWCA Civ 147, [2003] 2 WLR 1296. ....	4.101
Aratra Potato Co Ltd v Egyptian Navigation Co [1981] 2 Lloyd's Rep 119 .....	5.29
Arblade (Case 369/96) [1998] ECR 8453. ....	7.45, 7.46, 8.22, 8.39, 8.41, 8.42
Arcado SPRL v Haviland SA (Case C-9/78) [1988] ECR 1539. ...	3.23, 4.52, 4.53, 4.54
Ashbourne v Department of Education & Skills, EAT/0123/07/DM. ....	7.60
Askin v Absa Bank [1999] ILPR 471 .....	5.35
Assicurazione v Sigorta [2002] 1 Lloyd's Rep 480. ....	5.26
Attock Cement Co Ltd v Romanian Bank [1989] 1 Lloyd's Rep 572. ....	6.47
Attorney General of New Zealand v Ortiz [1984] 1 AC 41 .....	5.27
Autoclenz Ltd v Belcher [2009] EWCA Civ 1046, [2010] IRLR 70, [2011] UKSC 41 .....	2.12, 2.33, 2.36, 2.37, 2.43, 3.41
Banco Atlantico v British Bank of the Middle East [1990] 2 Lloyd's Rep 504 .....	5.46, 5.49
Base Metal Trading Ltd v Shamurin [2002] QB 322, [2004] EWCA Civ 1316, [2005] 1 WLR 1157. ....	3.19, 6.29, 6.32, 6.33, 6.50, 6.71
Beloff v Pressdram Ltd [1973] 1 All ER 241 .....	2.20, 2.21
Benatti v WPP Holdings Italy Srl [2007] EWCA Civ 263, [2007] 1 WLR 2316. ....	3.31, 3.36, 3.50
Bernini v Netherlands Minister of Education and Science (Case C-3/90) [1992] ECR I-1071 .....	3.38
Bishop v Financial Times, EAT/0147/03/ZT .....	7.58

Bleuse v MBT Transport Ltd [2008] ICR 488	1.12, 7.65, 7.66, 7.71, 7.72, 7.73, 7.75, 8.16, 8.29
Booth v Phillips [2004] EWHC 1437 (Comm), [2004] 1 WLR 3292	6.72
BP v Aon [2005] EWHC 2554 (Comm), [2006] 1 Lloyd's Rep 549	5.31, 5.32
British Aerospace Plc v Dee Howard Co [1993] 1 Lloyd's Rep 368	5.29, 5.31
British Airways v Mak, EAT/0055/09/SM	7.67
British Airways Board v Laker Airways Ltd [1985] AC 58	5.40, 5.41
British Airways Plc v Mak [2011] EWCA Civ 184	1.01, 1.11
British Reinforced Concrete Engineering Co Ltd v Schelff [1921] 2 Ch 563	9.18
Brodin v A/R Seljan [1973] SC 213	6.92, 7.16
Brown v SOS for Scotland (Case C-197/86) [1988] ECR 3205	3.38
Bryant v Foreign Commonwealth Office, EAT/174/02/RN	7.58
Bunce v Skyblue [2005] EWCA Civ 490, [2005] IRLR 557	2.56, 2.59
Byrne Bros (Formwork) Ltd v Baird [2002] ICR 667	2.08, 2.12, 2.44
Cable & Wireless v Muscat [2006] EWCA Civ 220, [2006] IRLR 354	2.57
Calder v H Kitson Vickers & Sons (Engineers) Ltd [1988] ICR 232	2.13
Caledonia Subsea Ltd v Micoperi SRL [2000] SLT 1022	6.63, 6.67
Canada Trust Co v Stolzenberg (No 2) [1998] 1 WLR 547, [2002] 1 AC 1	5.10
Carmichael v National Power Plc [2000] IRLR 43	2.16, 2.27, 2.29, 2.48, 2.67, 3.36
Carvalho v Hull, Blyth (Angola) Ltd [1979] 1 WLR 1228	5.30
Carver v Saudi Arabian Airlines [1999] ICR 991	7.53
Carvill America Inc v Camperdown UK Ltd [2005] EWCA 645, [2005] 2 Lloyd's Rep 457	5.11
Cassidy v Ministry of Health [1951] 2 KB 543	2.20
Catalyst Investment Group v Lewinsohn [2009] EWHC 1964	5.62
Centrum voor Gelijkheid van Kansen en voor Racismebestrijding v Firma Feryn NV (Case C-54/07) [2008] ICR 1390	3.55
Ceva Logistics Ltd v Mark Anthony Lynch [2011] EWCA Civ 188	2.53
Chiron Corp v Organon Teknika (No 2) [1993] FSR 567	7.15
Chunilal v Merrill Lynch [2010] EWHC 1467 (Comm)	4.87, 5.14, 5.27, 6.48, 6.58, 6.59, 6.60
CILFIT v Ministry of Health (Case 283/81) [1982] ECR 3145	3.13
Citi-march v Neptune Orient Lines Ltd [1996] 1 WLR 1376	5.37

Cochrane v AD Bly Construction Ltd, UKEAT/0243/05/MAA . . . . .	2.30
Commission v Luxembourg (Case C-319/06) [2008] ECR I-4323. . . . .	7.10, 8.12, 8.18, 8.21, 8.28, 8.33
Compagnie Tunisienne de Navigation SA v Compagnie d'Armement Maritime SA [1971] AC 572. . . . .	6.39, 6.42
Connelly v RTZ Corporation [1998] AC 854 . . . . .	5.38
Consistent Group Ltd v Kalwak [2007] IRLR 560 . . . . .	2.37, 2.55
Coreck Maritime GmbH v Handelsveem BV (Case C-387/98) [2000] ECR I-9337. . . . .	5.61, 5.62
Cotswold Developments v Williams [2006] IRLR 181 . . . . .	2.28, 2.45, 2.67, 3.36, 3.56
Coupland v Arabian Gulf Oil [1983] 1 WLR 1136. . . . .	6.12, 6.32, 6.74
Credit Lyonnais v New Hampshire Insurance Co Ltd [1997] 2 Lloyd's Rep 1 . . . . .	6.66
Crofts v Cathay Pacific Airways [2005] EWCA Civ 599, [2005] ICR 1436. . . . .	5.42, 7.55
D Curran & Sons Ltd v Beswinski, UKEAT/0476/09/JOJ . . . . .	1.14
Dacas v Brook Street Bureau (UK) Ltd [2004] EWCA Civ 217, [2004] ICR 1437. . . . .	2.57
De Bloos v Bouyer (Case C-14/76) [1976] ECR I-1497. . . . .	3.20, 4.31, 4.100
Definitely Maybe (Touring) v Marek Lieberberg Konzertagentur GmbH [2001] 1 WLR 1745. . . . .	6.63, 6.67
Diggin v Condor [2009] EWCA Civ 1133, [2010] ICR 213. . . . .	4.72, 7.57, 10.09
Donohue v Armco [2001] UKHL 64, [2002] 1 All ER 749 . . . . .	5.29, 5.30, 9.33
Dr G Williams v University of Nottingham [2007] IRLR 660 . . . . .	7.59
DR Insurance Co v Central National Insurance Co of Omaha [1996] 1 Lloyd's Rep 74 . . . . .	6.41
Drouot Assurances SA v CMI Industrial Sites and Protea Assurance (Case C-351/96) [1998] ECR I-3075 . . . . .	9.31
Duarte v The Black and Decker Corporation [2007] EWHC 2720, [2008] 1 All ER (Comm) 401 . . . . .	1.10, 4.60, 6.36, 6.49, 6.85, 9.01, 9.14, 9.20, 9.22, 9.26, 9.42, 9.46, 9.47, 9.48, 9.51, 9.52, 9.53, 9.55, 9.56, 10.13
Duncombe v Secretary of State for Children Schools and Families (No 2) [2011] UKSC 36. . . . .	7.60, 7.73, 8.29
Dupont v Agnew [1987] 2 Lloyd's Rep 585 . . . . .	5.26
Egon Odendorff v Liberia Corp [1996] 1 Lloyd's Rep 380. . . . .	6.43
Equitas Ltd v Allstate Insurance Co [2008] EWHC 1671 . . . . .	5.59

Erich Gasser GmbH v MISRAT Srl (Case C-116/02)	
[2003] ECR I-14693 .....	4.111, 4.118, 9.35
Express & Echo Publications v Tanton [1999]	
ICR 693 .....	2.34, 2.43, 2.47, 2.65, 3.36, 3.60
Financial Services Corp v SNC Passion [2004] EWHC 569 .....	7.31
Financial Times Ltd v Bishop, EAT/0147/03/ZT, 2003,	
23014808. ....	1.12, 4.54, 7.54
Focsa Services (UK) Ltd v Birkett [1996] IRLR 325 .....	4.54
Fonderie Officine Meccaniche Tacconi v Henrich	
Wagner Sinto Maschinefabrik (Case C-334/00) [2002]	
ECR I-7357. ....	4.57
Foster v Driscoll [1929] 1 KB 470 .....	7.39
Fothergill v Monarch Airlines Ltd [1981] AC 251 .....	3.12
Franks v Reuters [2003] EWCA Civ 417, [2003] IRLR 423 .....	2.06
Gan Insurance Co Ltd v Tai Ping Insurance Co Ltd [1999]	
ILPR 729. ....	6.41
Gerhard Fahey/McKinsey & Co Inc, EE/2001/146 .....	4.57
GIE Groupe Concorde v The Master of the Vessel	
Suhadiwarno Panjan, Pro Line Ltd (Case C-440/97)	
[1999] ECR I-6307, [2000] ILPR 626 .....	3.23, 4.35
Glaxosmithkline v Rouard (Case C-462/06) [2008]	
ICR 1375. ....	4.106, 4.112, 4.114, 4.116
Gomez v Encarnacion Gomez-Monche Vives [2008]	
EWHC 259 (Ch), [2008] 3 WLR 309 .....	5.59
Goshawk Dedicated v Life Receivables Ireland [2008]	
IEHC 90 .....	5.62
Gubisch Maschinefabrik KG v Giulio Palumbo	
(Case C-144/86) [1987] ECR 4861 .....	4.117
Haase v Superfast Ferries SA (Case C-413/07) .....	4.72
Hall v Lorimer [1994] ICR 218 .....	2.24
Halliburton v Ravat [2010] CSIH 52 .....	7.61, 7.62
Handte v TMCS (Case C-26/91) [1992] ECR I-3967 .....	3.18, 4.51
Harada Ltd v Turner [2000] ILPR 574 .....	4.78, 4.80, 6.57, 6.58
Harrods Ltd v Remick [1998] 1 All ER 52 .....	2.62
Harrods (Buenos Aires) Ltd, Re [1992] Ch 72 .....	5.57
Hawker de Havilland Ltd v Fernandes [1996] ATPR 41 .....	9.55
Henderson v Merrett Syndicates [1995] 2 AC 145 .....	4.48
Herceg Novi v Ming Galaxy [1998] 4 All ER 238 .....	5.35
Holloway v Faw, Casson & Co, 78 Md App 205, 552	
A2d 1311 (1989) .....	9.23
Hunt v United Airlines Inc [2008] ICR 934 .....	7.59

Ingmar GB Ltd v Eaton Leonard Technologies Inc (Case C-381/98) [2000] ECR I-9305 .....	7.35, 7.44, 7.71, 8.25
Inland Revenue Commissioners v Post Office Ltd [2003] ICR 546, EAT .....	2.46
Intercontainer Interfrigo SC (ICF) v Balkenende (Case C-133/08) [2009] ECR I-9687 .....	6.68
International Credit and Investment v Sheikh Kamal Adham [1999] ILPR 302 .....	5.35
Islamic Arab Ins Co v Saudi Egyptian American Reinsurance Co [1987] 1 Lloyd's Rep 315 .....	6.50
Ivenel v Schwab (Case C-133/81) [1982] ECR 1891 .....	3.32, 3.47, 3.48, 4.32, 4.50, 4.119, 4.121, 4.122, 6.94, 10.05
Jackson v Ghost Ltd [2003] IRLR 824 .....	1.13, 7.53, 7.54
James v Greenwich LBC [2008] EWCA Civ 35, [2008] ICR 545 .....	2.58
James v Redcats (Brands) Ltd, UKEAT/0475/06/DM, [2007] All ER (D) 270 .....	2.47, 2.67, 3.36
Jan Voogsgeerd v Navimer SA (Case C-384/10) .....	4.86, 6.61
Jivraj v Haswani [2010] EWCA Civ 712, [2010] 1 CLC 1057, [2011] UKSC 40 .....	2.50, 2.52, 3.41, 3.55, 4.15
JKN v JCN [2010] EWHC 843 (Fam) .....	5.62
Johnson v Coventry Churchill Ltd [1992] 3 All ER 14 .....	6.78, 6.89
Kalfelis v Schröder (Case C-189/87) [1989] ECR 407 .....	3.59, 4.48
Kiernan v The Amgen Insurance Co Ltd [2000] ILPR 517 .....	6.41
King v Crown Energy Trading AG [2003] EWHC 163 (Comm), [2003] OLPR 28 .....	4.24
Kirchner v Gruban [1909] 1 Ch 413 .....	6.06
Koelzsch v Luxembourg (Case C-29/10) .....	4.67, 4.72, 4.73, 4.82, 4.120, 6.02, 6.55, 6.56, 6.77, 6.95, 10.02, 10.08
Komninos S, The [1991] 1 Lloyd's Rep 37 .....	6.42
Konkola Copper Mines v Coromin [2005] EWHC 896 (Comm) .....	5.61, 5.62, 9.39
Kuwait Airways Corporation v Iraqi Airlines [2002] UKHL 19 .....	9.51
Lakah Group v Al Jazeera Satellite Channel [2003] EWHC 1297, [2003] EWCA (Civ) 1781 .....	5.08
Laval (Case C-341/05) [2007] ECR I-11767 .....	8.11, 8.18, 8.21, 8.27, 8.39
Lawrie-Blum v Land Baden-Württemberg (Case C-66/85) [1986] ECR 2121 .....	3.27, 3.38, 3.51, 3.54, 3.64, 4.13, 4.45, 6.27



Lawson v Serco, EAT/0018/02TM, 2003, WL 933554, [2006] UKHL 3, [2006] ICR 250. ....	1.13, 1.14, 4.66, 4.72, 5.25, 5.39, 5.40, 6.84, 7.54, 7.55, 7.57, 7.65, 7.69, 7.71, 7.72, 7.73, 8.07, 10.09
Leathertex v Bodeltex (Case C-420/97) [1999] ECR I-6747. ....	4.31
Lechouritou v Dimosiotis Omospondiakis Dimokratiastis Germanias (Case C-292/05) [2007] ECR I-1519. ....	4.15
Leeds County Council v Woodhouse [2010] EWCA Civ 410, [2010] IRLR 625. ....	2.62
Lister v Romford Ice and Cold Storage Ltd [1957] AC 555. ....	4.48
Lloyd's Register v Campenon Bernard (Case C-439/93) [1995] ECR I-961. ....	4.101
LTU v Eurocontrol (Case C-29/76) [1976] ECR 1541. ....	3.15, 4.11
Lubbe v Cape [2000] 2 Lloyd's Rep 383. ....	5.33, 5.37, 5.38
Lucasfilm Ltd v Ainsworth [2011] UKSC 39; rev'd in part [2009] EWCA Civ 1328. ....	5.62
MacFarlane v Glasgow City Council [2001] IRLR 7. ....	2.35, 2.43, 2.47
Maciej Rataj, The [1995] 1 Lloyd's Rep 302. ....	4.116
McMeechan v SOS for Employment [1995] ICR 144, [1997] ICR 549. ....	2.29, 2.55
Maharaneef of Baroda v Wildenstein [1972] 2 QB 283. ....	5.06
Marconi Communications Int v PT Pan Indonesian Bank Ltd [2005] EWCA Civ 422. ....	6.78
Mariannina, The [1983] 1 Lloyd's Rep 12. ....	6.39
Market Investigations Ltd v Minister of Social Security [1969] 2 QB 173. ....	2.21, 2.24
Martin Peters v Zuid (Case C-34/82) [1983] ECR I-987. ....	3.18, 3.24, 3.44
Marubeni Hong Kong and South China Ltd [2002] 2 All ER (Comm) 873. ....	6.47
Mercury Publicity Ltd v Wolfgang Loerke [1993] ILPR 142. ....	3.48
Midland Bank Plc v Laker Airways Ltd [1986] QB 689. ....	5.41, 9.36
Mingley v Pennock and Ivory (trading as Amber Cars) [2004] EWCA 328, [2004] ICR 727. ....	2.52
Ministry of Defence and Support of the Armed Forces for the Islamic Republic of Iran v FAZ Aviation Ltd [2007] EWHC 1042 (Comm), [2007] ILPR 42. ....	4.24
Ministry of Defence v Wallis, EAT/0536/08/ZT, [2011] EWCA Civ 231. ....	7.60, 7.64, 7.72, 7.73
Mirror Group Newspapers v Gunning [1986] ICR 145. ....	2.52
Mohammed v Bank of Kuwait & Middle East KSC [1996] 1 WLR 1483. ....	5.35