

Sean Smith QC

Year of Call: 1999 Year of Silk: 2012

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Professional Career to date

Devilmasters: Laurence Murphy QC, Norman Ritchie QC.

2012: Silk

2009 -2014: Standing Junior Counsel to Her Majesty's Revenue & Customs

2005 - 2008: Standing Junior Counsel to the Scottish Government

Education & Professional Qualifications

LLB (Hons)

Areas of Expertise

- Commercial Contracts
- Commercial Property
- Competition and Public Procurement
- Insolvency
- EU
- Intellectual Property Rights
- International
- Planning
- Public Law, Judicial Review and Human Rights
- Construction and Engineering
- Company, Corporate Finance and Tax

Professional Experience

Sean took silk in 2012, having called to the Bar in 1999. He was Standing Junior Counsel to Her Majesty's Revenue & Customs, Standing Junior Counsel to the Scottish Government, and the Lord Reid Scholar for 1998. In a previous career as an academic he was Fellow and Lecturer in law at Emmanuel College, Cambridge and a Van Calker Scholar at the Institut Suisse de Droit Comparé in Lausanne.

Sean specialises in building and engineering law, having been involved in many of the most significant and high-profile cases in the field, from John Doyle Construction Ltd v Laing Management (Scotland) Ltd 2004 BLR 295, which restated the law on global claims, Gillies Ramsay Diamond v PJW Enterprises Ltd 2004 BLR 131, which clarified the early law on adjudication, and, lead by Robert Akenhead QC in the House of Lords, Melville Dundas v George Wimpey UK Ltd 2007 BLR 257, which adapted the law on adjudication to a new climate of insolvency. He has run several Court of Session proofs, including, for 6 months in 2015/16, as second lead counsel in the Glendoe tunnel case. Much of his practice is in the field of energy and new technology, acting for major international companies such as Andritz and engie, both in court and in FIDIC arbitrations under the yellow, red and silver books.

In the field of public law, Sean's practice has a particularly European and international human rights dimension. For example, he represented the petitioning local authorities in the Edinburgh congestion charge case (free movement of persons, transport policy), as well as developers judicially reviewing a proposed shopping centre on the grounds of illegal state aid. He represented the NHS in a public procurement case that, unusually, went to proof and ended up in the Supreme Court (Healthcare at Home Ltd v The Common Services Agency 2014 SLT 769), the Lord Advocate in a case about whether education authorities owed a duty of care to abused children (McEwan v Hendron 2007 SC 556) and the Lord Advocate again in a case concerning the patient's right to life (Emms v Lord Advocate 2011 SC 433). He appears frequently in the tax chamber of the FtT and the Upper Tribunal (NHS Lothian Health Board v R & C Cmrs [2015] STC 2221, Hepburn v R & C Cmrs [2013] STI 3031), and has represented HMRC and taxpayers in matters of both UK, and now Scottish, taxation.

Recent Cases

Emms v Lord Advocate [2011] CSIH 7
<http://www.scotcourts.gov.uk/opinions/2011CSIH7.html>

Her Majesty's Revenue & Customs v Colquhoun [2010] UKUT 431 (TCC)
http://www.tribunals.gov.uk/financeandtax/Documents/decisions/HMRC_v_KennethColquhoun_revised.pdf

Her Majesty's Revenue & Customs v Mason [2010] UKUT 214 (TCC)
<http://www.tribunals.gov.uk/financeandtax/Documents/decisions/JohnALithgowMason.pdf>

Scottish Widows Services Ltd v Harmon/CRM Facades Ltd [2010] CSOH 42
<http://www.scotcourts.gov.uk/opinions/2010CSOH42.html>

Willis v Argyll & Bute Council [2010] CSOH 122
<http://www.scotcourts.gov.uk/opinions/2010CSOH122.html>

Albert Bartlett & Sons (Airdrie) Ltd v Gilchrist & Lynn Limited [2010] CSIH 33
<http://www.scotcourts.gov.uk/opinions/2010CSIH33.html>

City of Edinburgh Council v Glasgow University [2010] CSOH 20
<http://www.scotcourts.gov.uk/opinions/2010CSOH20.html>

Fleming Builders Ltd v Forrest [2010] CSIH 8
<http://www.scotcourts.gov.uk/opinions/2010CSIH8.html>

Robertson v Metro [2009] CSOH 71
<http://www.scotcourts.gov.uk/opinions/2009CSOH71.html>

E4A v South Ayrshire Council [2009] CSOH 146; 2010 SLT 253
<http://www.scotcourts.gov.uk/opinions/2009CSOH146.html>

Barr Ltd v Klin Investment UK Ltd 2009 SLT 104

<http://www.scotcourts.gov.uk/opinions/2009CSOH104.html>

Greig v Middleton, Sheriff Evans 24.3.09

http://www.scotcourts.gov.uk/opinions/A306_07.html

Curot Contracts Ltd v Castle Inn (Stirling) Ltd [2008] CSOH 179

<http://www.scotcourts.gov.uk/opinions/2008CSOH179.html>

Rosserlane Consultants Ltd, Petitioner [2008] CSOH 120

<http://www.scotcourts.gov.uk/opinions/2009CSOH71.html>

Melville Dundas (in receivership) v George Wimpey UK Ltd 2007 SLT 413, [2007] UKHL 18

<http://www.publications.parliament.uk/pa/ld200607/ldjudgmt/jd070425/melville-1.htm>

McEwan v Hendron 2007 SC 556

<http://www.scotcourts.gov.uk/opinions/2007csih27.html>

Degrément SA v Caledonian Environmental Services plc [2007] CSOH 203

<http://www.scotcourts.gov.uk/opinions/2007CSOH203.html>

Marjandi Ltd v Bon Accord Glass Ltd, Sheriff Tierney 15.10.07

http://www.scotcourts.gov.uk/opinions/opinions/ca_06.html

Emms v The Lord Advocate [2007] CSOH 184; [2010] CSIH 12

<http://www.scotcourts.gov.uk/opinions/2007csoh184.html>

Aberdeen CC v Alok Wanchoo 2007 SLT 289 [2006] CSOH 196 19.12.06

<http://www.scotcourts.gov.uk/search/results.asp>

Stirling t/a M&S Contracts v Westminster Properties Scotland Limited[2007] CSOH 117 9.7.07

<http://www.scotcourts.gov.uk/opinions/2007CSOH117.html>

Musselborough & Fisherrow Co-operative Society v Mowlem (No.2) 7.3.06

<http://www.scotcourts.gov.uk/opinions/2006hcjac27.html>

Jones v Feather Brooksbank Ltd [2005] CSOH 15

<http://www.scotcourts.gov.uk/opinions/a69.html>

Diamond Offshore Drilling UK Ltd v Gulf Offshore NS Limited 2005 SLT 589, [2005] CSIH 4 11.1.05

<http://www.scotcourts.gov.uk/opinions/a3618.html>

Ballast plc v Laurieston Properties Ltd [2005] CSOH 16 25.1.05

<http://www.scotcourts.gov.uk/opinions/csoh16.html>

Elmford Ltd v McLagan Investments Ltd [2005] CSOH 81 23.6.05

<http://www.scotcourts.gov.uk/opinions/2005csoh81.html>

Land Securities Group plc v North Lanarkshire Council 2005 SLT 849, [2005] CSOH 116 19.8.05

<http://www.scotcourts.gov.uk/opinions/2005csoh116.html>

Musselborough & Fisherrow Co-operative Society v Mowlem (No.1) 3.3.04

http://www.scotcourts.gov.uk/opinions/ca30_02.html

Gillies Ramsay Diamond v PJW Enterprises Ltd 2004 SLT 545

<http://www.scotcourts.gov.uk/opinions/ljc2309.html>

Vaughan Engineering Ltd v Hinkins & Frewin Ltd 2003 SLT 428
http://www.scotcourts.gov.uk/opinions/ca202_02.html

John Doyle (Contractors) Limited v Laing Management (Scotland) Limited 2003 SLT 713
<http://www.scotcourts.gov.uk/opinions/a806.html>, 18.4.02
http://www.scotcourts.gov.uk/opinions/ca141_00.htm

Karl Construction Limited v Palisade Properties Limited 2002 SLT 270
http://www.scotcourts.gov.uk/opinions/ca199_01.html

Fab-tek Engineering v Carillion Construction Limited 2002 SLT (Sh Ct) 113
http://www.scotcourts.gov.uk/opinions/a873_01.html

Scottish Power Generation Ltd v British Energy Generation (UK) Ltd 2002 SC 517
<http://www.scotcourts.gov.uk/opinions/mcf0701.html>, 25.4.02
http://www.scotcourts.gov.uk/opinions/a5684_01.html

Krupp Uhde GmbH v Weir Westgarth Ltd 31.5.02
<http://www.scotcourts.gov.uk/opinions/eas1505.html>

Stiell Facilities Ltd v Sir Robert McAlpine Ltd 2001 SLT 1229
<http://www.scotcourts.gov.uk/opinions/men1708.html>

Samuel Smith Old Brewery (Tadcaster) v City of Edinburgh Council 2001 SLT 977
http://www.scotcourts.gov.uk/opinions/p224_00.html

IPCC Ltd v Caledonian Quarry Products Ltd 3.11.00
<http://www.scotcourts.gov.uk/opinions/mcf3010.html>