



## 2014 ICS Examiner's Report

### SHIPPING LAW (SL)

#### **General Comments**

Overall, the scripts presented this year for marking demonstrated a good degree of understanding of the legal principles taken up for discussion. Question 5 was the most popular one this year, followed by question 1; the least popular one was question 8.

#### **Question 1**

The candidates were expected to be familiar with the common law obligation to nominate a safe port under a charterparty contract. The candidates were to carry out a detailed discussion on the common law obligation to nominate a safe port, and how the courts in England have interpreted this. Those who fared above average had presented a good answer, using case laws in their discussions to demonstrate a good understanding of the law. The performance of the candidates on this question could be summarised as being above average.

#### **Question 2**

The candidates were expected to be familiar with time charterparty contracts and the possible claims that could arise from the performance of a time charterparty. The candidates were to carry out a detailed discussion of the legal issues arising for consideration under the facts presented. Candidates were also expected to demonstrate a good understanding of the time charter practice on supplies made to the ship under timecharter, and who is to bear the cost of bunkers. The overall performance of the candidates could be summarised as being good.

### **Question 3**

The candidates were expected to be familiar with the admiralty practices of seeking, **a.** freezing injunctions, and **b.** *in rem* and why and in what circumstances such a relief would be sought. The candidates were to present a detailed discussion about when a claimant would contemplate seeking a freezing injunction, and initiate an *in rem* proceeding before the admiralty courts. The answer was also to contain the relevant provisions of the UK Supreme Court Act and demonstrate a clear understanding of such proceedings before the admiralty court. The performance of the candidates on this question could be summarised as being good.

### **Question 4**

Here, the candidates were expected to be familiar with the obligations arising under both common law and Hague-Visby Rules to make the vessel seaworthy. The candidates were to present a detailed discussion on the requirement of the shipowner to make the vessel seaworthy under both common law and Hague-Visby Rules. The discussions were to demonstrate a clear understanding of the obligation to make the vessel seaworthy and also contain the relevant provisions of the Hague-Visby Rules. The performance of the candidates on this question could be summarised as being very satisfactory.

### **Question 5**

The candidates were expected to be familiar with laytime in voyage charterparties with particular reference to port and berth charterparties, Notice of Readiness (NOR), laytime, demurrage and so on. They were also to carry out a detailed discussion about when and how laytime would commence in relation to both port and berth charter parties. The candidates were expected to have a good understanding of the above practice and the discussions were to demonstrate a clear grasp of the legal principles behind the practice. The performance of the candidates on this question could be summarised as being satisfactory.

### **Question 6**

The candidates were expected to be familiar with limitations of liabilities and the provisions of the *London Convention on Limitation of Liability 1976*. The candidates were to carry out a detailed discussion on the concept of limitations of liabilities, and the 1976 London Convention focussing on Article 4 where a person may not be able to limit their liability if it is their personal act or omission caused with intent to cause loss, which resulted in the loss. The discussion was to demonstrate a clear understanding of the concept of limitation of liabilities (Article 4). The overall performance of the candidates attempting this question could be summarised as being satisfactory.

### **Question 7**

The candidates were expected to be familiar with the different types of charterparty contracts, in particular with time and voyage charters. The candidates were to carry out a detailed discussion concerning **a.** the differences between a voyage charter party and a time charterparty contract, and **b.** the obligations of the parties to the different contracts. The answers were to demonstrate a clear understanding of the differences and the obligations and well supported by relevant case laws. The overall performance of the candidates could be summarised as being satisfactory.

### **Question 8**

The candidates were expected to carry out a preliminary discussion on the Salvage Convention 1989 and Articles 13 & 14 of the Convention and were also expected to be fully familiar with the other provisions of the Convention. The candidates were to carry out a detailed discussion on the salvor's entitlement to reward under Article 14 and the level of remuneration in comparison to a reward under Article 13. The discussion was also to focus on how the 1989 Salvage Convention was pro-salvor and encourages salvors to engage in saving or minimising the damage done to environment and seek an up-lift on their salvage remuneration. The overall performance of the candidates could be summarised as being satisfactory.