



# ICS Examiners Report

## Shipping Law 2011

### Overall Comments

Some of the answers presented were too general with no case laws being used in the discussions. The scripts did not demonstrate a clear understanding of the law taken up for discussion. This could be down to the fact that not many candidates had full taken advantage of the tutorship system. Questions 4 and 5 were the most popular ones, while the least popular one was Question 3, followed by Question 7.

### Question One

The second most popular question (along with 2 & 8). Candidates who failed to answer this question did not demonstrate a clear understanding of the law. Here, the candidates were expected to be familiar with the general principles of collision regulation and liabilities. They were to carry out a detailed discussion on (a) the collision regulation, and (b) the principles of liability. Candidates were expected to be aware that most maritime liabilities arise out of some form of negligence, and most cause of action would be covered under the tort of negligence. 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 average.

### Question Two

The second most popular question (along with 1 & 8). Here, the candidates were expected to be familiar with “safe port warranty” and “lien and cesser” clause under charterparty contracts. The candidates were expected to carry out a detailed discussion a) safe port warranty and how and when it is implied into a voyage charterparty contract and b) lien and cesser clause found in charterparty contracts. The performance of the candidates on this question could be summarised as being below average.

### Question Three

The least popular question. Although topical, it was disappointing to see only a very small percentage of the candidates attempting to answer the question. The candidates were expected to be familiar with *The Rotterdam Rules*. They were expected to carry out a detailed discussion on The Rotterdam Rules and what it seeks to achieve and some of the problems found in the existing carriage regimes (The Hague, Hague-Visby and Hamburg Rules). The discussion should also include whether in the candidate’s view the new Rules will be suited for modern day shipping. The performance of the candidates on this question could be summarised as being good.

#### **Question Four**

The most popular question (along with question 5). Here, the candidates were expected to be familiar with the legal principles relating to time charter party operations, off-hire, speed warranties, delays, late arrivals, etc. They were to study the scenario presented, carry out a detailed discussion of the case in hand, the applicable law, the remedies open to the time charterer in the given circumstances with clear and convincing legal arguments. Those who recorded a 50% mark had clearly identified and analysed the legal issues that arose for consideration. The performance of the candidates on this question could be summarised as being very satisfactory.

#### **Question Five**

The most popular question (along with question 4). The candidates were expected to be familiar with the concept of arrived ship in relation to port and berth charterparties under voyage charterparty contracts. They were also to carry out a detailed discussion on i) the concept of arrived ship in relation to port and berth charterparties under a voyage charterparty contract, ii) the circumstances in which damages for detention may be claimed by the Owners, and iii) how this differs from the demurrage regime. The performance of the candidates on this question could be summarised as being very satisfactory.

#### **Question Six**

The candidates were expected to be familiar with the provisions of the Athens Convention relating to the carriage of passengers and their baggage by sea. They were to carry out a detailed discussion on the legal issues arising for discussion from the facts presented and the key provisions of the Athens Convention on the carriage of passengers and their baggage by sea relevant to the facts presented. The candidates are expected to identify and deal with issues clearly and be able to demonstrate a good understanding of the application of the provisions to the problem presented. The overall performance of the candidates could be summarised as being good.

#### **Question Seven**

This was the third least popular question. The candidates were expected to be familiar with the concept of “Limitations of Liability” and the 1976 Limitation Convention. They were to carry out a detailed discussion on the concept of “Limitations of Liability”, the right to limit liability and the type of claims for which limitation may be sought under the 1976 Limitation Convention. Those who fared above average had presented a good answer, using relevant case laws in their discussions demonstrating a good understanding of the law. The overall performance of the candidates could be summarised as being good.

#### **Question Eight**

This was the 2<sup>nd</sup> most popular question (along with 1 and 2). The candidates were expected to be familiar with the Convention of 1989 and the reasons for the introduction of provisions aimed at protecting the environment. They were to carry out a detailed discussion on the LOF and how it contained terms and conditions providing for remuneration for efforts to save the environment, and how such concerns about the environment have positively influenced the laws on Salvage and eventually the Salvage Convention of 1989. Those who fared above average had demonstrated a clear understanding of the position of law, using case laws in their discussions. The overall performance of the candidates could be summarised as being good.